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ABSTRACT

This guide is intended to assist Latin teachers and English teachers with background in Latin to expand the English vocabulary and reading skills of students through the study of Latin roots, prefixes, and suffixes. It is also intended to familiarize students with aspects of classical culture and its impact; to introduce orally some basic Latin; and to stimulate interest in the study of language and the humanities. An introduction provides general notes on teaching Latin in the Philadelphia School District and notes on the use of the guide. This section includes notes on scheduling, staffing, articulation with other materials, the organization of each lesson, general teaching hints, and an overview of the material to be taught in this unit. The main part of the guide presents 13 lesson profiles and a unit review lesson. Each profile contains objectives, instructions, materials to be used, and the vocabulary and other necessary information. A selected annotated bibliography and summary of the classical pronunciation of Latin are appended. (AMH)

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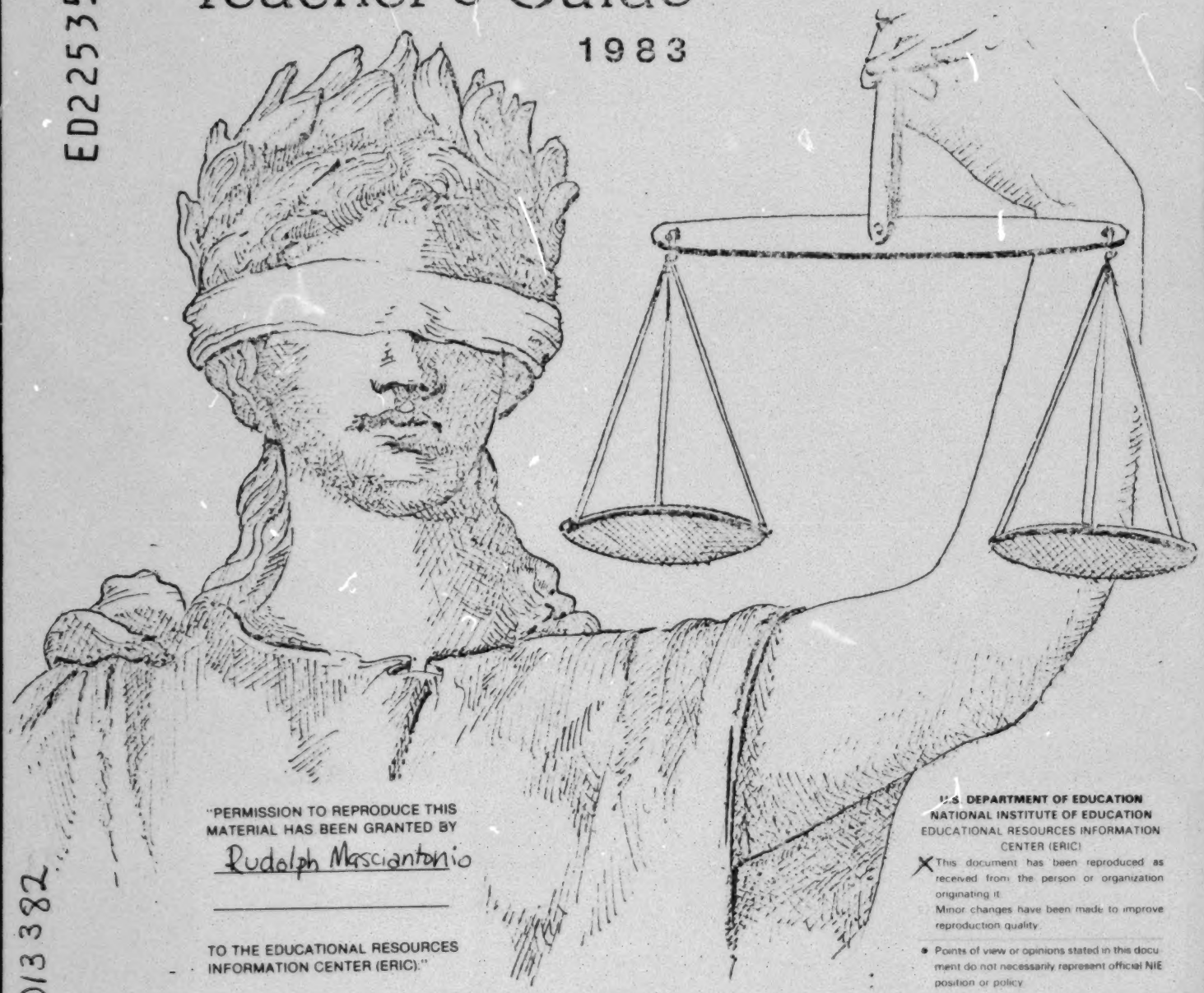
LEGAL LATIN

Teacher's Guide

1983



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L E G A L L A T I N

T e a c h e r ' s G u i d e

by
Dr. Rudolph Masciantonio et al.

Tentative Edition

Division of Foreign Language Education
Office of Curriculum and Instruction
The School District of Philadelphia

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VIRO EMINENTISSIMO ET DISTINGUISSIMO ROBERTO M. SEBASTIAN HOC LIBELLUM PLENIS CORDIBUS DAMUS DONAMUS ATQUE DEDICAMUS

Qui mente factis pectore
Latinitatem coluit
scholis in nostris publicis
hymnis Robertum pangimus!

Ut stilla rorans gramina
mentes tenellas adjuvit
divisque sparsit floribus
antiquitatis semitam.

In barbaros tam acriter
pugnavit instans undique
ut linguas discant liberi
et ament fontes temporum.

Causidicus tam eminans
amicus noster sapiens
magister patientiae
tu es, Robert(e) , in cordibus.

Et nunc librum de legibus
feliciter cum gratiis
nos dedicamus, optime,
tributum plenis animis.

(auctore Rudolpho Masciantonio)

οὐ γὰρ ἐπαύσατο ἕκαστα ἡμῖν τῶν περὶ σὲ διηγούμενος, τὸ μεγαλοπρεπὲς τῆς ψυχῆς, τοῦ φρονήματος τὸ ἀνάστημα, τῶν τρόπων τὴν ἡμερότητα, ἐμπειρίαν πραγμάτων, σύνεσιν γνώμης, σεμνότητα βίου φαιδρότητι κεκραμένην, λόγου δύναμιν, τἄλλα ...

"For people do not cease recounting to us your every characteristic- your magnanimity, the loftiness of your spirit, the gentleness of your manners, experience in affairs, sagacity of judgment, dignity of life mingled with affability, ability as a lawyer, and the many other qualities..."

(St. Basil, Epistulae 63, written in 371 A.D. to the Roman Governor of Neocaesaria in Asia Minor)

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The National Endowment for the Humanities through its two grants to the School District for the Language Arts through Latin project has greatly expanded the teaching of Latin in the School District and provided a catalyst for the development of this Guide. We are very grateful to the Endowment for its support.

FOREWORD

This guide is intended to assist Latin teachers and English teachers with background in Latin to expand the English vocabulary and reading skills of pupils through the study of Latin roots, prefixes and suffixes.

Recent research in various parts of the country has shown the significantly positive effect of the study of Latin on the vocabulary and reading skills of pupils of all backgrounds and abilities. Over 65% of the words in English come from Latin either directly or indirectly, including most literary and scientific terminology. Latin roots, prefixes, and suffixes provide the key to unlocking the meanings of these words. In addition, the inflected nature of the Latin language affords pupils the opportunity to acquire a linguistic perspective that is helpful in learning English.

This guide also is designed to familiarize pupils with aspects of classical culture and its impact; to introduce orally some basic Latin; and to stimulate interest in the study of languages and the Humanities in general.

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INTRODUCTION

I. GENERAL NOTES ON TEACHING LATIN IN THE PHILADELPHIA SCHOOL DISTRICT

The major goals for the teaching of Latin in The School District of Philadelphia have been stated as follows by the Latin and Greek Curriculum Committee and the K-12 Foreign Language Curriculum Committee:

1. To teach pupils to understand, speak, read, and write Latin within an appropriate cultural context.

2. To widen the cultural horizons of the pupils, especially through comparing the classical past with our own world and through showing the relationship between our world and that of the ancient people.

3. To extend the verbal functioning of the pupils in English, especially through vocabulary building based on Latin roots and affixes.

4. To foster interest in the study of classical and modern languages and the Humanities in general.

Other goals are:

1. To develop an appreciation of the relationship between Latin and other foreign languages, especially the Romance languages.

2. To improve the self-concept of pupils by giving them the opportunity to study a subject area with which they might not otherwise identify.

To aid in the accomplishment of these goals certain basic principles have been postulated regarding Latin instruction. These principles, together with the goals listed above, constitute School District policy on Latin instruction.

1. Latin programs must be geared to the needs of all children -- not just the academically talented or the college bound.

2. Latin teaching must be multisensory, lively, dramatic, enthusiastic, and creative. Pupils must be fully involved in the learning process.

3. Aural-oral work must be emphasized since this tends to heighten student interest and leads ultimately to a more natural and facile reading ability. Listening and speaking should always precede reading and writing.

4. Emphasis should be given to usage and to practice in the structure of the language as opposed to minute grammatical analysis.

5. Extending the English verbal functioning of pupils, especially by relating English words to their Latin roots and affixes, should form a major part of the Latin program. Attention should be given to contrastive study of the structures of Latin and English.

6. Comparing and contrasting classical culture with our own and tracing the influence of the past on the present should be emphasized.

II UTILIZATION OF THE GUIDE

A. Scheduling

This guide may form part of a minicourse or "course-within-a-course" on Word Power through Latin. The scheduling patterns that may be used for such a minicourse or "course-within-a-course" are very flexible; some workable possibilities include:

- one class period (circa 45 minutes) per week for an entire school year devoted to Word Power through Latin
- two class periods per week for a semester devoted to Word Power through Latin
- five class periods per week for one or two months devoted to Word Power through Latin
- a portion of almost every class period (e.g. 20 minutes) for an entire school year devoted to Word Power through Latin

The guide may also form part of the basis of a completely separate course (either a major or minor) called Word Power through Latin.

The guide may be used with pupils in grades 7-12 who have not necessarily studied any Latin previously. It may be used with pupils of all backgrounds and abilities.

B. Staffing

The guide may be used by a Latin teacher as part of a Latin course.

An English (or Reading or Language Arts) teacher with some background in Latin could also utilize the guide as part of the English course. Conceivably teachers in other fields may find the guide useful. Secondary school English teachers who are participants in the Language Arts through Latin project receive supportive help from the Division of Foreign Language Education. Secondary School English teachers who are not already participants in the Language Arts through Latin project and who wish to use this guide with their classes are urged to join the project. For details contact the Division of Foreign Language Education.

C. Articulation with Other Materials

This guide is part of a group of curriculum materials designed to build the English vocabulary and reading skills of secondary school pupils. The guide may be used before or after the other components of the group or completely independently of them. To date the following materials have appeared:

- Word Power through Latin: A Curriculum Resource
- The Numbers in Latin
- Star Trek with Latin
- Greco-Roman Sports and Games
- Latin the Language of Health Sciences

The teacher who uses thes materialsshould be aware of those parts of the elementary school Latin curriculum materials which deal with English vocabulary development. These include:

- Look for the Latin Word: A Gamebook on English Derivatives and Cognates to Accompany How the Romans Lived and Spoke
- Latin the Key to English Vocabulary: A Gamebook on English Derivatives and Cognates to Accompany Voces de Olympo

With adaptations it is possible to use the above listed elementary school materials with secondary school pupils just as parts of the secondary school Word Power through Latin materials may be adopted to elementary school pupils.

D. Organization of Each Lesson

Each lesson is conceived of as approximately 45 minutes of instruction for an average secondary school class. Naturally some classes will require more time and some less. In general thorough mastery of what is covered is preferable to simply "covering" material without mastery.

Each lesson specifies what can be taught (objectives) and how to teach it (activities). In a way the teacher is provided with a step-by-step recipe for accomplishing the objectives of each lesson. The teacher at first may wish to follow the "recipe" very closely. Later, of course, adaptations in the activities (and in the objectives of the lessons) may be made. All adaptations, however, should be made within the framework of the general notes on teaching Latin in the Philadelphia School District given

at the beginning of this introduction.

Latin utterances (quotations, dialogues, phrases) appearing in the guide are to be introduced orally. Teachers should let the pupils hear these utterances and then have them repeat them chorally and individually. Reading and writing these utterances should come only as a third and fourth step after understanding and speaking. In other words a strict four skills or audio-lingual or aural-oral-lecto-graphical approach is envisioned.

The same audio-lingual approach is to be used for the teaching of English derivatives and cognates. Hearing and speaking should always precede reading and writing.

Wordgames which are included in the guide in general should be reproduced so that each pupil receives a copy. Due to shortages in paper and breakdowns in duplicating machines in the schools, teachers may prefer to treat the copies of the wordgames as non-consumable items.

The guide ends with a unit review which enables the teacher to gauge how well pupils have mastered the content.

E. General Hints to the Teacher

The following list of helpful hints for using this guide was drawn up as a result of field testing.

1. Be sure to adhere to the audio-lingual approach. Presenting the four language skills (listening comprehension, speaking, reading, and writing) distinctly and in proper order will provide required re-entry for pupils. It is also a more natural way to acquire knowledge of a first or second language.

2. Be sure to appeal to as many of the senses of pupils as possible. A talking teacher is not enough --- no matter how engaging or interesting. Use visual cues (where appropriate), charts, the chalkboard, and other realia. Get the pupils physically involved in the learning process as much as possible.

3. Be enthusiastic about your subject!
Your enthusiasm will be contagious!

4. Get the pupils involved in enrichment projects of various kinds. Pupils can be asked to make posters illustrating etymological relationships or illustrating quotations and proverbs introduced in the course of the unit or illustrating cultural concepts.

5. Give emphasis to the usage of new English derivatives and cognates. Get the pupils using the derivatives and cognates in sentences.

6. Relate what is taught in the Word Power through Latin unit to the rest of the curriculum whenever appropriate. Invite pupils to use etymological principles, for example, in learning new vocabulary in any subject. Encourage them to become aware of the impact of the classical heritage in such areas as art, literature, music, history, and science.

7. Be sure to intersperse choral and individual response in your teaching. Pupils need the practice and security that choral response and repetition provide. They also need to be heard individually so that the teacher can assess their efforts and provide individualized help.

8. Be sure that material placed on and copied from the chalkboard is accurate. Teachers should supervise carefully the transcription of material by pupils.

F. An Overview of the Material To Be Taught in This Unit

1. Latin maxims and phrases used in modern law.

2. English derivatives and cognates connected with the Latin utterances.

3. Information on the Greco-Roman legal heritage.

4. Some significant and interesting passages on law from Greek and Latin literature.

LESSON PROFILES FOR

L E G A L L A T I N

LESSON I

Objectives

1. To make pupils aware of the influence of Latin and the Romans in the area of law.

2. To introduce the following Latin legal maxims:

Cáveat emptor.	Let the buyer beware.
Cáveat vendor.	Let the seller beware.
De mínimis non curat lex.	The law does not care for trifles.
*Lex dúbia non obligat.	A doubtful law does not oblige.
Res ipsa lóquitur.	The thing speaks for itself.

Activities

1. Show the class a map of the world. Mention that one of the great inheritances of the modern world from the ancient Romans lies in the field of law. Roman law is used today in vast areas of the world:

   -virtually all of Africa, except for English-speaking countries

   -all of Europe, except England and the Soviet Union

   -all of South America

   -Mexico, Central America, Quebec, and Louisiana

   -most of Asia, except for the Soviet Union

   Point to those areas as you mention them. Roman law is based on great codifications or summaries. One of the most famous of these is the Corpus Juris Civílis ("The Body of Civil Law") or Codex Justiniáni ("Code of Justinian"), compiled under the direction of the Eastern Roman Emperor Justinian in the 6th Century A.D. Naturally, the civil law of the Romans has been modified and adapted to new conditions over the centuries. But the basic idea remains of summarizing all laws in one book or codification.

   The other great system of law in use in the modern world is Common Law. This system is used in England, the United States, and many British Commonwealth countries. Rather than being based on codification, it is based on precedents, i.e., what previous courts have decided. Point to the countries using Common law (United Kingdom, the U.S., Canada, Australia, anglophone Africa). The common Law has been influenced by the Roman Law.

   You might also point out that Roman Law is loftier and more noble in its conception than Common Law. In actual practice though, Common Law tends to provide more real fairness and justice. In other words, Roman Law may "look good" on paper, but may not actually be put into practice. In some dictatorial regimes, for instance, elemental legal rights may in practice be ignored (e.g., habeas corpus exists on paper only in some countries; in practice people are jailed without trial.)

*Since the maxim Lex dúbia non obligat is more common in ethics than in law, the teacher may wish to omit it.

Also, Roman Law allows more excuses than Common Law. Common Law insists on the letter of the law. Roman Law shows more epikeia ("mercy, equity"), at least on paper.

Put the following chart on the chalkboard and ask the pupils to explain it.

	ROMAN LAW	COMMON LAW
Basis	Codification	Precedent
Where Used	Most parts of the world, except English-speaking countries	Most English-speaking countries
Characteristics	Tends to be noble, lofty, and beautiful in concept Allows excuses more readily than Common Law. Shows epikéia (Greek term for "mercy, equity")	Tends to be pedestrian, commonplace and prosaic by comparison to Roman Law Insists on the letter of the law more than Roman Law
Application	In many situations the lofty principles are ignored, (e.g., in left-wing and right-wing dictatorships)	Real justice and fairness tends to take place in Common Law countries

2. Tell the pupils that lawyers, judges and legal scholars use a good deal of Latin terminology. Many concepts in Common Law as well as Roman Law have Latin names or names derived from Latin. Also, many well known legal principles are expressed as Latin maxims. Explain that they will learn some of these.

3. Explain that the first two maxims are used frequently in the consumers' movement. Say the maxims Cáveat emptor and Cáveat vendor. Have the pupils repeat. Give the English translation of each and ask pupils to give examples of how these maxims are used. Explain that the consumers' movement seeks to replace Cáveat emptor (which is the maxim currently in force) with Cáveat vendor. Cáveat emptor puts the burden on the buyer or customer if there should be something wrong with a product or service.

4. Tell the pupils that there is a legal maxim which means that the law is not concerned with trifles. The maxim is De mínimis non curat lex. Say the maxim several times. Have the pupils repeat chorally and individually. Ask for some examples of how they think the maxim might apply. (One example would be that a law suit for $.01 against someone would probably be thrown out of court on the grounds that De mínimis non curat lex). You might point out that some humorous jingles have been coined involving this maxim. An example follows:

> There was a small puppy named Rex.
> A cat tried to give him a hex.
> So Rex went to court,
> But the Judge did retort:
> De mínimis noncurat lex!

5. Tell the pupils that another interesting legal maxim indicates that a doubtful law does not oblige. The maxim is Lex dúbia non obligat. Say the maxim several times. Have the pupils repeat chorally and individually. Ask for some examples of how they think the maxim might apply. (One example would be that if there is

some doubt about whether parking is permitted in a particular spot, one should not receive a ticket for parking there). You might mention that in Common Law, the presumption is that everyone knows the law. In ethics (where the maxim is also applied) a distinction is made between a dúbium juris ("a doubt of law") and a dúbium facti ("a doubt of fact").

6. Tell the pupils that a legal maxim meaning "The matter (or thing) speaks for itself" is Res ipsa lóquitur. Say the maxim several times and have the pupils repeat chorally and individually. This maxim is fairly famous and is used outside the law as well as in law. It is used in actions for injury by negligence, where no proof of negligence is needed beyond the accident itself. Ask for some examples. (one example would be that in getting hit by a falling brick, one would not have to prove negligence. The accident itself indicates negligence. The matter speaks for itself.)

7. Ask pupils whether they agree with the maxims Lex non curat de mínimis, Lex dúbia non obligat, Cáveat emptor, Cáveat vendor, Res ipsa lóquitur.

8. In connection with Res ipsa lóquitur, the teacher may point out that the word res occurs in the following legal Latin phrases:

res adjudicáta	the adjudicated or decided matter
res gestae	the matter done, the subject matter

Have the pupils repeat phrases. Point out that a lawyer might refer to the res gestae of a case. He might say that something is not pertinent to the res gestae. He could also point out that res adjudicáta is an issue that has already been decided by a competent court. It cannot be the subject of further litigation. That tenants must pay their rent is, in effect, a res adjudicáta, and cannot be brought before a court as an issue.

LESSON 2

Objectives

To introduce pupils to the following Latin legal maxims:

Ignorántia legis néminem excúsat.	Ignorance of the law excuses no one
Ad impossibília nemo tenétur.	No one is bound to do the impossible
In generálibus versátur error.	Error thrives in general terms
Excéptio probat régulam.	The exception proves the rule
Cujus est solum ejus est usque ad coelum.	The person who owns the land owns it all the way up to the sky

Activities

1. Tell the pupils the following story in dramatic terms: Mr. DeProfundis, a teacher in a nearby school, received a ticket for parking on the north side of Spruce Street. He appeared in traffic court and said he did not know that parking was forbidden on the north side. The Judge, however, found him guilty of the violation on the grounds that Ignorántia legis néminem excúsat. Have the pupils say the Latin maxim after you several times. Ask them to explain what they think it means in English.

Supply the English meaning, if necessary.

The Judge said that Mr. DeProfundis would have to pay up at once. However, Mr. DeProfundis had left his apartment without his wallet or checkbook. He could not pay his fine on the spot. The Judge said that he could leave without paying because Ad impossibília nemo tenétur. Have the pupils say the Latin maxim after you several times. Ask them to explain what they think it means in English. Supply the English meaning, if necessary.

The Judge went on to say that the usual rule was for someone to pay immediately, but Excéptio probat régulam. Follow the same procedure with this maxim as with the others.

2. Tell the pupils the following story in dramatic terms: Ms. Lexdubia decided that she was tired of paying high electric bills. She saw an advertisement for a windmill that could produce electricity free from wind power. She decided to have the windmill built in her backyard. Her neighbors objected. They did not want a windmill there. They claimed that the windmill would block their sun and air. In court, however, the Judge cited the principle that a person who owns the land owns it all the way up to the sky -- Cujus est solum ejus est usque ad coelum. (Have the pupils echo the Latin several times). The Judge went on to say that the principle of Cujus est solum ejus est esque ad coelum was apt to become more and more important as people became concerned about air rights, the sun, etc.

   The neighbors did not give up. They locked up the deed to Ms. Lexdubia's property. It did not describe as specifically as possible the dimensions of her property. The neighbors claimed that perhaps she did not own the yard. The Judge stated that the deed was not as exact as it should be and that In generálibus versátur error, "Error thrives in general terms." However, despite the general terms, Ms. Lexdubia was still the owner of the yard.

3. Have the pupils repeat and fill in orally as indicated.

Repétite omnes ("Everybody repeat"):

Ignorántia legis néminem excúsat
Ignorántia legis néminem excúsat.

Repéte ("Repeat" addressed to one student):

Ignorántia legis néminem excúsat.
Ignorántia legis néminem excúsat.

Finíte senténtiam ("Finish the sentence:)

Ignorántia legis néminem _____.
Ignorántia legis _____.
Ignorántia _____

Fini senténtiam ("Finish the sentence" addressed to one person):

Ignorántia legis néminem _____.
Ignorántia legis _____.
Ignorántia _____.

Dícite senténtiam, omnes ("Say the sentence, everyone"):

_____

Dic senténtiam ("Say the sentence"):

_____

Repétite omnes:

Ad impossibília nemo tenétur.
Ad impossibília nemo tenétur.

Repéte:

Ad impossibília nemo tenétur.
Ad impossibília nemo tenétur.

Finíte sententiam:

Ad impossibília nemo _____.
Ad impossibília _____.
Ad _____.

Fini senténtiam:

Ad impossibília nemo _____.
Ad impossibília _____.
Ad _____.

Follow a similar procedure with the other maxims. The English meaning of each maxim may be written on the chalkboard to help assure comprehension.

LESSON 3

Objectives

1. To introduce the reading and writing of the Latin maxims presented in previous lessons.

2. To introduce the English derivatives and cognates from recently-learned Latin lexical items: caveat, emporium, vendor, vendible, curator, sinecure, minimal, Captain Nemo, tenacious, tenable, regulator, irregularity, probation, probate.

Activities:

1. Have pupils echo each of the following legal maxims chorally and individually:

Cáveat emptor
Cáveat vendor
De mínimis non curat lex.
Lex dúbia non obligat.
Res ipsa lóquitur.
Ignorántia legis néminem excúsat.
Ad impossibília nemo tenétur.
In generálibus versátur error.
Excéptio probat régulam.
Cujus est solum ejus est usque ad coelum.

2. Give the maxims to the pupils on a dittoed sheet or put them on the chalkboard. Have the pupils read them aloud chorally and individually.

3. The pupils may be asked to illustrate the meaning of some or all of the maxims, either in a written composition or in oral discussion or through posters. The posters may feature pictures cut from magazines or illustrations drawn by the pupils. The Latin maxim should always be clearly and accurately printed on such posters.

4. Discuss the English derivatives and cognates, their etymologies, and their meanings, with the pupils. Elicit as much information as possible from the pupils. Have the pupils echo the derivatives and cognates chorally and individually:

ENGLISH WORD	LATIN ROOT	MEANING OF ENGLISH WORD
caveat	cáveat "beware"	warning
emporium	emptor "buyer"	place to buy things
vendor	vendor "seller"	seller
vendible	vendor "seller"	salable
curator	curat "cares"	director of a museum of similar institution
sinecure	curat "cares" sine "without"	an office which requires no work, yet provides compensation
minimal	mínimis "small things"	smallest in amount or degree
minimize	mínimis "small things"	to reduce to the smallest possible amount or size
dubious	dúbia "doubtful"	undecided, questionable
indubitable	dúbia "doubtful"	too apparent to be doubted, unquestionable
Captain Nemo	nemo "no one"	a fictional character in Jules Verne's writings
tenacious	tenétur "is held"	holding firmly, persistent; stubborn
tenable	tenétur "is held"	capable of being held or defended; logical
regulator	régulam "rule"	a device to control or govern
irregularity	régulam "rule"	something which is unusual or not according to the rule
probation	probat "proves"	a trial period in which a person's fitness is tested
probate	probat "proves"	legal establishment of the validity of a will

5. Ask the following questions:

   a. What would it mean to say that the teacher issued a caveat to the class?
   b. What goes on at an emporium?
   c. Is General Motors an automobile vendor?
   d. Is old junk vendible?
   e. What is the job of the curator of a museum?
   f. Is a teacher's job a sinecure?
   g. Do students who do minimal work receive good marks in school?
   h. Do fire extinguishers help to minimize the dangers ot a fire?
   i. What is a dubious reputation?
   j. Is it indubitable that fire is hot?
   k. Is Captain Nemo a real historical figure?
   l. Are cats tenacious whan they climb trees?
   m. Is sleeping during class a tenable practice?
   n. Do heaters have regulators?
   o. Would sleeping during class be considered an irregularity?
   p. Are criminals sometimes put on probation?
   q. What would a book called How to Avoid Probate be about?

6. You may want to explain that a testamentary caveat may be filed with the Registrar of Wills if one has a will written by a deceased person and suspects that someone will seek letters of administration claiming that there is no will. The testamentary caveat warns people that there is a will written by the deceased and that the deceased person's property cannot be administered as though no will existed.

LESSON 4

Objectives

To review derivatives and cognates presented in the previous lesson.

Activities

1. Have the pupils echo the derivatives and cognates chorally.

2. Ask the following questions in rapid-fire fashion:

   True or False:

   a. Wills normally are declared legally valid in a process known as probate. (T)
   b. Excellent students are frequently placed on probation by the principal. (F)
   c. The Internal Revenue Service is a regulator of the amount of income taxes paid. (T)
   d. Irregularity in attendance seriously hinders progress in school. (T)
   e. Misers keep a tenacious hold on their money. (T)
   f. Getting drunk is not a tenable solution to problems. (T)

g. The name of Jules Verne's science fiction character, Captain Nemo, is Latin for Captain "Nobody." (T)

h. The fact that the earth revolves around the sun is indubitable. (T)

i. Being called the most disruptive pupil in a school is a dubious distinction. (T)

j. Brushing your teeth after meals is a good way to minimize tooth decay. (T)

k. Insulating a house helps keep heating expenses minimal. (T)

l. Being a lawyer is a sinecure. (F)

m. A background in history and classical languages is necessary to be the curator of the University Museum. (T)

n. Sometimes old furniture may be vendible. (T)

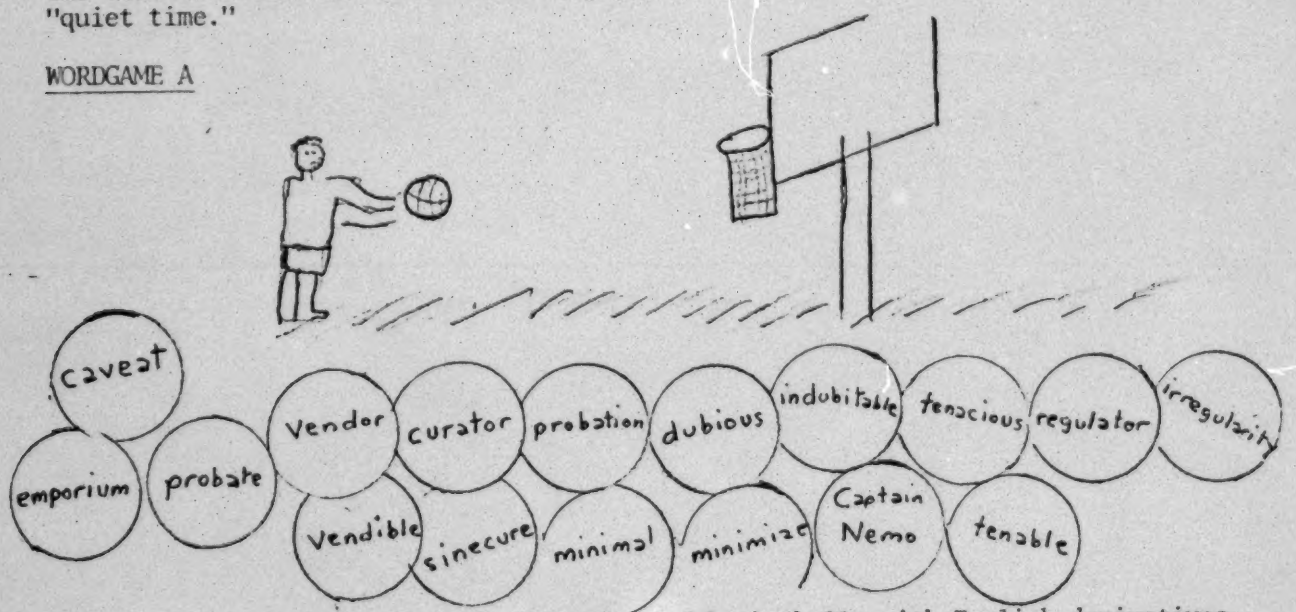
o. People who sell goods on the sidewalks are called street vendors. (T)

p. The Gallery shopping center is a vast emporium in Center City Philadelphia. (T)

q. A judge may issue a caveat to people about their behavior in the courtroom. (T)

3. Distribute the following Wordgame to the pupils. Have them work on it in class. The teacher should assist individual pupils and check on their work during this "quiet time."

WORDGAME A



This basketball player has a large number of basketballs with English derivatives and cognates written on them. Put each basketball in its proper place in the sentences below. The Latin root is given with each sentence to help you.

1. The medicine had a _____ printed on the label to help prevent overdoses. (Caveat)
2. Chestnut Street is a great _____. (Emptor)
3. Damaged clothing is not generally _____. (Vendor)
4. The City of Philadelphia requires a street _____ to get a licence in order to sell merchandise on the sidewalk. (Vendor)
5. A person in charge of a museum is called a _____. (Curat)
6. In a big city, a job on the police force is certainly not a _____. (Curat)

7. People on parole must stay in touch with their _____ officer. (Probat)
8. Good eating habits will _____ the danger to health. (Minimis)
9. Plenty of fire extinguishers in a building help to keep danger from fire _____. (Minimis)
10. That the sun is vital to the survival of life on earth is an _____ fact. (Dubia)
11. Criminals often have a _____ reputation in the community. (Dubia)
12. Captain _____ is a character in Jules Verne's writings. (Nemo)
13. The human hand has a _____ grasp. (Tenetur)
14. The position of the Nazis in the Holocaust was not _____ by any standard of morality. (Tenetur)
15. The Pan-African Conference acts as a _____ of the conduct of its member nations. (Regulam)
16. _____ in attendance is a cause of problems in school work. (Regulam)
17. The services of a lawyer are usually useful in trying to _____ a will. (Probat)

LESSON 5

Objectives

1. To compare modern American and ancient Roman courts.
2. To acquaint pupils with terms used in reference to American and Roman courts.

Activities

1. Show the class a list of the terms used in reference to an American court and then, beside it, list the terms which refer to parallel functions in the ancient Roman court.

AMERICAN	ROMAN
A. JUDGE	A. MAGISTRÁTUS (PRAETOR) et CONSÍLIUM
B. JURY	B. JÚDICES
C. PROSECUTOR	C. ACCUSÁTOR et SUBSCRIPTÓRES
D. DEFENSE ATTORNEYS	D. PATRÓNI et ADVOCÁTI
E. DEFENDANT	E. REUS
F. COURT CLERKS	F. SCRIBAE
G. WITNESSES	G. TESTES

2. Tell the students of the duties of the persons in an American court and in a Roman court and point out the contrasts between them. Elicit information from pupils wherever possible. Have pupils echo orally the Latin terminology.

A. JUDGE: The judge in an American court presides over the activities of the trial, decides points of law and procedure, and instructs the jury on what the issues are in the case and what the law says about these issues... Judges in federal courts are appointed by the President of the United States. State and local judges are elected by the people. Minor judges in Philadelphia were formerly called magistrates, as are minor federal judges.

In a Roman court, the praetor or magistrátus supervised the operation of the various courts. Praetors were elected by the people...In the courtroom, the Roman magistrate performed basically like an American judge, but he had a consílium, a panel of three legal experts, to advise him on the law. Have pupils echo Latin terminology such as praetor, consílium, and magistrátus.

B. JURY: In the United States, any citizen can be selected to serve on a jury ("jury duty"); it is both a right and an obligation of an American citizen. Both the prosecutor and the defense attorney can "challenge" a certain number of potential jurors and have them excluded from the jury. There are two types of challenges: (1) for cause; (2) peremptory. In a peremptory challenge, no reason need be given. Peremptory comes from the Latin verb peremptus meaning "taken away completely."

...Trial juries do not exceed twelve, and the vote must be unanimous for acquittal or for conviction. Where juries cannot agree (a "hung jury"), a mistrial is declared and a new trial must be arranged.

Rome. Each year a list of several hundred jurors was drawn up from males of senatorial or equestrian (knights) rank. From this list(album júdicum), the panel for a particular trial was chosen by lot. Both the prosecution and the defense could reject a certain number of unacceptable jurors. Juries varied in size, the smallest recorded being 32 and the largest 75. The term juror comes from the Latin verb juráre "to swear" which in turn is connected with the noun jus, "right."...Jurors were provided with a wooden tablet covered on both sides with wax. On one side, C for condémno was written; on the other A for absólvo. The juror erased one letter. He could erase both if he thought there wasn't enough evidence to prove either guilt or innocence. A majority of votes decided the case.

C. PROSECUTOR:

In the United States, a government official is always the prosecutor, never a private citizen. The prosecutor makes his summary statement at the end of the trial after all the evidence and testimony has been presented Whether the defendant is acquitted or condemned, the prosecutor incurs no personal blame or merit since he is acting for the state.

In ancient Rome, the accusátor was always a private citizen, and he might be supported by others (subscriptóres). The accusator made an initial conclusive statement, then presented evidence (including witnesses, testes), followed by questions and answers by both sides in the case. In case of acquittal, the prosecutor was liable for the charge of calúmnia, making a groundless accusation, or praevaricátio , conspiring with the defense to secure acquittal. In case of conviction, he received a práemium, a reward, fixed by the magistrate and jury.

D. DEFENSE ATTORNEYS:

In the United States, every defendant is entitled to be represented by a lawyer. Character witnesses may be called to testify to the qualities and past good life of the defendant. The term "defendant" comes from the Latin verb deféndere, "to protect." The defense attorney, like the prosecutor, makes a conclusive statement at the end of the trial, after evidence and testimony have been presented. The term "prosecutor" comes from the Latin verb prósequi, "to follow after, to pursue."

Among the Romans, the defendant had a lawyer or lawyers (patrónus or patróni) to present his case in court. Also, he could bring along any influential friends (advocáti) to be seen in court and to give advice. The patrónus made an initial, comprehensive statement regarding the case, and then presented evidence, witnesses, and responses to inquiries.

E. THE DEFENDANT:

In the United States, a person is considered innocent until proven guilty. Criminal charges are always brought to court against a defendant by the government, even if the initial charges are made by a private citizen. After an initial hearing, the defendant may be imprisoned or allowed free "on bail" until the time of his trial.

In Rome, the reus could be brought to court and charged with a crime either by the government or by a private citizen. The reus was considered innocent until proven otherwise. After an initial hearing the reus could be imprisoned or allowed freedom until the time of his trial.

F. CLERKS:

In American courts, clerks are present to keep word-for-word records of what is said and done during the entire trial.

In Roman courts, scribae were present to record what was said and done during the trial.

G. WITNESSES:

In the United States, people who have any knowledge of the case can be required to attend and testify under penalty of the law. For this purpose, a subpoena can be issued by the judge.

In Rome, witnesses could be required by the magistrate to come to the court and give accurate information of their knowledge of the case. They were so required sub poena (under penalty of the law) to do so.

3. Play the game "U.S.A., ROME, or BOTH" with the class.

U.S.A., ROME, or BOTH GAME

Have the students read or the teacher can read to the class the following statements. Then the students must indicate whether the statement applies to the American courts only by answering "U.S.A." or to the ancient Roman courts only by answering "ROME" or tothe courts of both nations equally by answering "BOTH."

The teacher may wish to make each student a reus and let each correct answer count as a vote of absólvo (not guilty) and each incorrect answer count as a vote of condémno (guilty). At the end of the game, the individual students would tabulate their votes and perhaps be appropriately rewarded.

STATEMENTS:

1. "Ladies and gentlemen of the jury" 1._____
2. The defense attorney declared the juror unacceptable. 2._____
3. The 42 jurors voted 30 to 12 for acquittal and the defendant was freed. 3._____

4. At the end of the trial, the prosecutor made a summary statement about the entire case. 4._____
5. He could not serve on the jury because he was not a citizen. 5._____
6. The District Attorney of the city was the prosecutor 6._____
7. She could not serve on the jury. 7._____
8. The jury was swayed in its judgement by the presence of the defendant's influential friends in the courtroom. 8._____
9. He was the 17th juror to be selected for the jury. 9._____
10. He was the 9th juror to be selected for the jury. 10._____
11. She was the 3rd juror to be selected for the jury. 11._____
12. The jury took into account the testimony of the defendant's employer about his honesty and hard work. 12._____
13. At the beginning of the trial, the defense attorney made a complete statement about the facts in the case. 13._____
14. The juror erased the C from his tablet to vote for the defendant's acquittal. 14._____
15. Only two jurors insisted on voting "guilty", so the defendant had to be tried again. 15._____
16. Only two jurors insisted on voting "guilty", so the defendant was freed. 16._____

LESSON 6

Objectives

1. To review the following Roman court terms:

magistrátus	magistrate
júdices	jury
accusátor	prosecutor
patrónus	lawyer
advocáti	advocates
reus	defendant
scribae	recorders
testes	witnesses
consílium	panel of experts
jus	right law
juráre	swear
prósequi	prosecute
defféndere	defend

2. To introduce the following English derivatives and cognates:
   - magistrate, magistracy
   - judicial, judiciary, judicious, injudicious, adjudicate, prejudice
   - accuse, accusatory, accusation
   - patron, patronize, patronal
   - advocate, advocacy
   - scribe, inscribe, prescribe, proscribe, describe, script
   - testify, testimony, testament, attest, protest
   - counsel, counsellor
   - jurist, jurisprudence, juridical, perjure, perjury, abjure, conjure
   - prosecute, prosecution
   - defensible, indefensible

Activities

1. Say each of the Roman court terms listed in the objectives. Have the pupils repeat each term. Ask for an explanation of each.
2. Approach the following chart of English derivatives and cognates in the usual way. With some classes it may be possible to finish the entire list in one lesson; other classes may require more time.

ENGLISH WORD	LATIN ROOT	MEANING OF ENGLISH WORD
magistrate	magistrátus "magistrate"	an officer of the government who has power to apply the law and put it into force
magistracy	magistrátus "magistrate"	the position, rank or duties of a magistrate or judge
judicial	júdices "jury, judges"	relating to the court
judiciary	júdices "jury, judges"	relating to the court; the court system
judicious	júdices "jury, judges"	careful, with adequate thought
injudicious	júdices "jury, judges"	careless, without adequate thought
adjudicate	júdices "jury, judges"	to solve a problem by court intervention
prejudice	júdices "jury, judges"	forming an opinion in advance of adequate consideration
accuse	accusátor "prosecutor"	to charge with having done something wrong
accusatory	accusátor "prosecutor"	charging
accusation	accusátor "prosecutor"	a charge of wrong-doing
patron	patrónus "lawyer"	special protector
patronize	patrónus "lawyer"	to act as a protector, benefactor or customer

ENGLISH WORD	LATIN ROOT	MEANING OF ENGLISH WORD
patronal	patrónus "lawyer"	relating to a patron
advocate	advocáti "advocates"	supporter
advocacy	advocáti "advocates"	supporting something
reus	reus "defendant"	a defendant in an action
scribe	scribae "recorders"	a person whose occupation is copying or writing
inscribe	scribae "recorders"	to write on
prescribe	scribae "recorders	to set down authoritatively
proscribe	scribae "recorders"	to forbid
describe	scribae "recorders"	to relate, express
script	scribae "recorders"	handwriting
testify	testes "witnesses"	to give evidence
testimony	testes "witnesses"	statement used for evidence or proof
testament	testes "witnesses"	a will
attest	testes "witnesses"	to bear witness
protest	testes "witnesses"	to object to
counsel	consílium "panel of experts"	advice; a lawyer; to give advice
counsellor	consílium "panel of experts"	a person who advises; a lawyer
jurist	jus "right,law"	one skilled in the law
jurisprudence	jus "right,law"	legal science; system of laws
juridical	jus "right, law"	pertains to the law
perjure	jus "right, law"	to swear falsely
perjury	jus "right, law"	a false swearing
abjure	jus "right, law"	to renounce, to swear to give up
conjure	jus "right, law"	to summon solemnly
prosecute	prósequi "to prosecute, pursue"	to bring before a court of law
prosecution	prósequi "to prosecute, pursue"	the side that starts action against another in a law court
defensible	deféndere "to defend"	capable to being defended, upheld
indefensible	deféndere "to defend"	not capable of being upheld or defended
defendant	deféndere "to defend"	the accused; the one who needs defense in a trial

3. Ask the following true or false questions in rapid-fire fashion:

a. The President is the chief magistrate of the United States. (T)

b. The presidency is the chief magistracy of the United States. (T)

c. The judicial system in the United States does not include the Supreme Court and the various federal courts. (F)

d. When people complain about the slowness of the judiciary, they are referring to the slowness of the court system. (T)

e. A judicious statement is usually carefully prepared and considered. (T)

f. Off-the-cuff, hastily put together statemments are injudicious. (T)

g. It is sometimes desirable to adjudicate a property dispute. (T)

h. Racial prejudice was an important factor in the history of the United States. (T)

i. It is not proper to accuse someone without evidence. (T)

j. Pointing a finger at someone can be considered an accusatory gesture. (T)

k. Calling someone a liar and a thief is a fairly serious accusation. (T)

l. A patron of the arts is someone who supports and helps them. (T)

m. A person who buys in a store is said to patronize the store. (T)

n. Patronal help is important for a struggling young artist. (T)

o. An advocate of the ERA is someone who supports it. (T)

p. Advocacy of natural foods (as opposed to junk foods or foods with artificial ingredients) is becoming popular. (T)

q. A defendant in a court case may be called a reus by his lawyer. (T)

r. Before printing was invented, there were many scribes who made copies of books by hand. (T)

s. When an author inscribes a book, he writes his name and perhaps a greeting in it. (T

t. Teachers prescribe the rules in a classroom. (T)

u. Talking during class is usually proscribed. (T)

v. Newspapers describe what happens. (T)

w. The actor's part in the play is called the script. (T)

x. Witnesses come to court to testify. (T)

y. Witnesses give testimony in court. (T)

z. People ask their lawyers to prepare their last will and testament. (T).

aa. A handwriting expert can attest to the genuineness of a signature. (T)

bb. Fans sometimes protest a referee's decision. (T)

cc. It would be foolish for a defendant to refuse the help of legal counsel. (T)

dd. A lawyer is also called a counsellor. (T)

ee. A member of the Supreme Court may be called a jurist. (T)

ff. Lawyers study jurisprudence. (T)

gg. A court has judicial power. (T)

hh. A person who lies under oath is said to perjure himself. (T)

ii. Perjury is usually punishable under the law. (T)

jj. People do not often abjure the right to eat. (T)

kk. A medium tries to conjure up the spirits of the dead. (T)

ll. The district attorney's job is to prosecute criminals. (T)

mm. The prosecution is the side that starts action against another in court. (T)

nn. Trying to provide food for hungry people is certainly defensible. (T)

oo. Sleeping during class is indefensible. (T)

pp. The defendant in a criminal case needs a good lawyer. (T)

4. If time allows, you may ask the pupils if they have ever heard of the legal terms parole and probation. Explain that both these terms have Latin backgrounds. Ask pupils to investigate the etymology and meaning, point out that sometimes knowing the etymology or word history can help one to appreciate the richness of language and the way it is used. The background that pupils may find in good dictionaries is summarized as follows:

ENGLISH WORD	LATIN ROOT	MEANING OF ENGLISH WORD
parole	parábola "discourse, word"	release of a prisoner before his term has expired on condition of continued good behavior
probation	probáre "to try, to prove"	suspending a sentence of a minor offense and granting provisional freedom on the promise of good behavior

LESSON 7

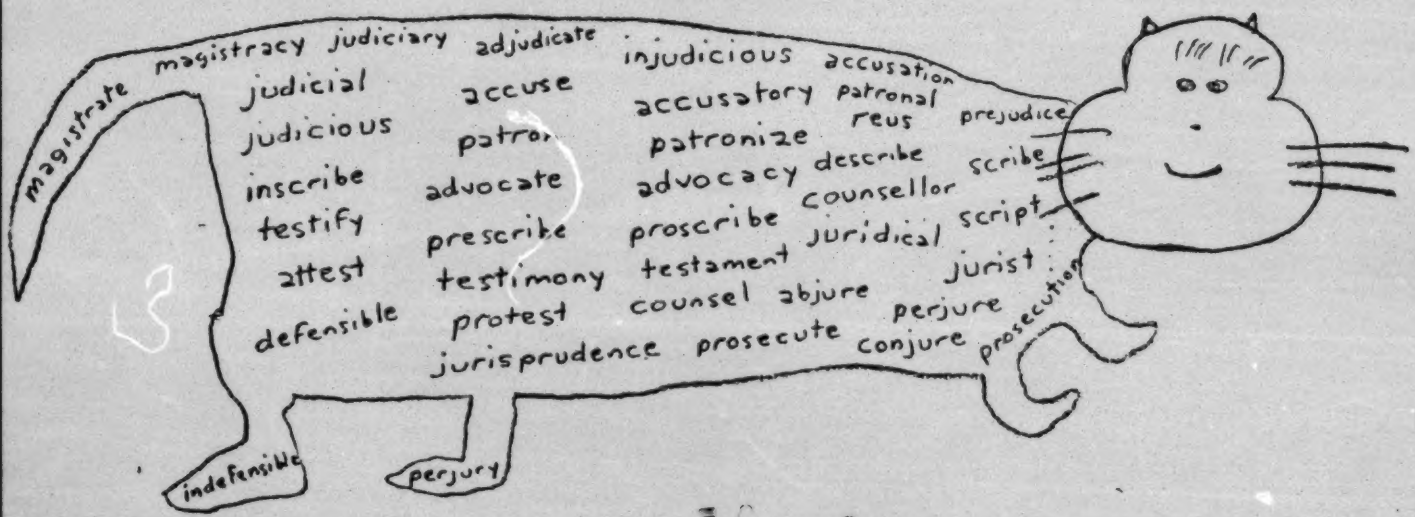
Objectives

To review the derivatives and cognates presented in the previous lesson.

Activities

Distribute Wordgames B and C to the class. Have the pupils work on these during the class period while you assist individuals needing help.

WORDGAME B



Our old friend Claudius has gotten himself all covered with derivatives and cognates. Help him out by putting the derivatives and cognates into the proper sentences. Latin roots are provided with each sentence to help you.

1. If you shop at a supermarket you are said to _____it. (PATRÓNUS)
2. A _____ of music donates money to help musicians and musical groups. (PATRÓNUS)
3. _____ help is important for a struggling young artist. (PATRÓNUS)
4. The head of government in a country may also be the chief _____. (MAGISTRÁTUS)
5. A district under the jurisdiction of a magistrate may be called a _____. (MAGISTRÁTUS)
6. It is an honor to be selected for the federal _____. (JÚDICES)
7. Acceptance of a bribe by a judge would be an example of _____abuse. (JÚDICES)
8. The _____use of medicine can be helpful to a sick person. (JÚDICES)
9. Sculptors frequently want to _____their names on the base of the status. (SCRIBAE)
10. Doctors will frequently _____ medicine for their patients. (SCRIBAE)
11. Witnesses will _____what they see. (SCRIBAE)
12. Actors and actresses must study the _____. (SCRIBAE)
13. A person whose occupation in ancient times was to copy or write is called a _____. (SCRIBAE)
14. A defendant is also called a _____. (REUS)
15. Saying that a person is a crook is an _____. (ACCUSÁTOR)
16. A prosecutor will sometimes speak in an _____ tone of voice. (ACCUSÁTOR)
17. A careless remark could be described as _____. (JÚDICES)
18. It is possible for a court to _____ a property dispute. (JÚDICES)
19. Racial _____ is an unfortunate fact of life in today's world. (JÚDICES)
20. It is not fair to _____ someone of theft without adequate evidence. (ACCUSÁTOR)
21. An _____ of the Equal Rights Amendment is a supporter of it. (ADVOCÁTI)
22. _____ of violence as a means of solving problems is not a popular point of view. (ADVOCÁTI)
23. A teacher will _____talking and disorder during class. (SCRIBAE)
24. A witness normally will _____ in court. (TESTES)
25. A statement used for evidence is called _____. (TESTES)
26. Everyone should prepare a last will and _____. (TESTES)
27. An eyewitness can _____ to the truth of a statement (TESTES)
28. Anti-nuclear _____marches are becoming more frequent. (TESTES)
29. To tell a lie deliberately in court is to _____oneself. (JUS)
30. _____ is false swearing. (JUS)
31. To _____ownership of a house would be to give it up. (JUS)
32. A fortune teller will try sometimes to _____up the spirit of a dead person. (JUS)

33. The District Attorney in Philadelphia has an obligation to _____ criminals. (PRÓSEQUI)

34. The _____ in a trial is frequently the state. (PRÓSEQUI)

35. Being disrespectful to a teacher is _____ at any time. (DEFÉNDERE)

36. Sometimes an army will retreat to a more _____ position (DEFÉNDERE)

37. The help of legal _____ is important in the preparation of a will. (CONSÍLIUM)

38. Cicero was a famous Roman _____. (JUS)

39. Lawyers must study _____. (JUS)

40. A _____ matter requires careful professional legal attention. (JUS)

41. The _____ use of medicine can be harmful to a patient. (JÚDICES)

W O R D G A M E C

Imperial Country Club

Legal Latin Golf Tournament

PAR for this course: 68. Count 1 for each blank space you fill in correctly on the first try. Count 2 for each space you fill in incorrectly or have to erase.

HOLE:		Par			Your Score
	1:	4	: D_S_ _ I_E	: WRITE ABOUT	1.
	2:	3	: P_R_U_E	: SWEAR FALSELY	2.
	3:	3	: J_R_ _T	: ONE VERSED IN THE LAW	3.
	4:	5	: _ _ D_M_ _T	: A FORMAL DECISION	4.
	5:	4	:_ _V_CA_Y	: ACT OF PLEADING FOR	5.
	6:	4	:A_C_S_T_ON	: ACT OF ACCUSING	6.
	7:	4	:P_E_U_I_E	: JUDGING BEFORE EVIDENCE IS IN	7.
	8:	3	:_ES_I_Y	: TO BEAR WITNESS	8.
	9:	5	:_O_NS_L_O_	: ONE WHO GIVES ADVICE	9.
	10:	4	:S_ _ _P_	: WRITING	10.
	11:	6	:I_ _E_EN_I_ _E	: CAN'T BE DEFENDED	11.
	12:	4	:P_ _R_NI_E	: TO GIVE ONE'S SUPPORT TO	12.
	13:	5	:J_ _I_I_R_	: SYSTEM OF COURTS	13.
	14:	3	:A_T_S_	: TO ASSERT THE TRUTH OF	14.
	15:	2	:R_ _S	: THE ONE ON TRIAL	15.
	16:	3	:S_R_ _E	: ONE WHO WRITES	16.
	17:	4	:TE_ _AM_ _T	: A WRITTEN DECLARATION	17.
	18:	2	:J_ _Y	: THEY DECIDE GUILT OR INNOCENCE	18.
TOTAL:		68		YOUR SCORE:	

LESSON 8

Objectives

To introduce orally the following legal Latin phrases used in English:

LATIN EXPRESSION	LITERAL MEANING	SPECIAL MEANING, IF ANY
pro témpore (abbr. pro tem)	for the time being, temporarily	
pro forma	as a matter of form	
ipso facto	by the fact itself	
bona fide	in good faith	sincere, genuine
mala fide	in bad faith	
ex post facto	from the action afterwards	operating retroactively
subpoéna (also written subpena)	under penalty	a writ requiring someone to do something under the threat of legal penalty
per se	through itself, by itself	
prima fácie	at first sight	
nolo conténdere	I will not contend	a plea made by the defendant equivalent to admission of guilt but leaving open the possibility for him to deny alleged facts in other proceedings
ex officio	in virtue of one's office	
corpus delícti	body of the crime	material evidence of the fact that a crime has been committed
hábeas corpus	you shall have the body (brought to court)	writ requiring that a party be brought before a court or judge promptly. Named for first words.
óbiter dictum	said by the way	an incidental remark by a judge or other person
non compos mentis	not having control of the mind	not of sound mind and hence not legally responsible
nolle prósequi (almost always used in the abbreviated form nol. pros.)	to be unwilling to pursue	a declaration that the plaintiff or prosecutor will drop prosecution of all or part of a suit or indictment
onus probándi	burden of proof	
ex uxor (abbr. ex ux.)	and his wife	
modus operándi (abbr. M.O.)	manner or way of operating	
cui bono	for what good, for what purpose	
et álii, et ália (abbr. et al.)	and the other persons, and the other things	

amicus cúriae	friends of the court	a person who advises a court on a matter of law in a case to which he is not a party
in própria persóna	in one's own person	without a lawyer
ad hoc	for this purpose, i.e., special	
in flagránte delícto	in flagrant crime	in the act
per cápita	by heads, individually	
per stirpes	by the stalk or stem	
de facto	according to fact, actually	
de jure	according to law, legally	
quid pro quo	something for something	an equal exchange of substitution
sine die	without a day (set for reconvening)	

Activities

1. Without writing the Latin expressions on the board, have the pupils echo them. Explain the meaning of each in English. Explain to the pupils that some of the terms have an anglicized as well as a Latin pronunciation, e.g.,

   subpóena has the anglicized pronunciation sub peena

   bona fide has the anglicized pronunciation bona fidee

   prima fácie has the anglicized pronunciation prima fashe

   ex officio has the anglicized pronunciation eks ofisheo

   After pupils have mastered the Latin pronunciation, you may have them look up anglicized pronunciations in an English dictionary.

2. In distinguishing per cápita from per stirpes, explain that both terms are used in inheritance law. A grandfather dies. He has three sons--Manny, Moe, and Jack. Manny has three sons, Moe has two, and Jack has one. Everything was left to the grandsons. How much does each get on a per capita basis? (1/6) How much does each get on a per stirpes basis? (Each branch gets 1/3).

3. Ask pupils to explain the Latin expressions(s) in each of the following sentences:

   a. The Senator who presides over the U.S. Senate in the absence of the Vice President is called the president pro tempore or pro tem of the Senate.

   b. A company will sometimes send a pro forma invoice.

   c. An alien, ipso facto, has no right to a U.S. passport, but when aliens are deported their airfare is sometimes paid as a quid pro quo for leaving.

   d. The real estate agent brought a bona fide offer to the woman who wanted to sell her house.

   e. The student who deliberately sleeps during class and then complains that he does not learn much is acting mala fide.

   f. A subpoena is usually delivered in person.

g. Talking is neither good nor evil per se.

h. Prima facie evidence is required to arrest a person, even if the person is arrested in flagrante delicto.

i. Spiro Agnew, former Vice President of the U.S., pleaded nolo contendere to the charges against him.

j. The Queen is an ex officio member of Parliament.

k. The judge issued a habeas corpus.

l. In an obiter dictum, the judge expressed his opinion of the law.

m. The institutionalized person was declared non compos mentis.

n. The District Attorney was anxious to agree to a nol. pros.

o. The onus probandi rests with the accuser.

p. The modus operandi in each murder was similar according to the police; in each case the corpus delicti was found hidden in a closet.

q. The lawyer asked the prosecutor to explain cui bono in regard to the request for a dela

r. The psychologist filed a brief as amicus curiae.

s. The defendant appeared in court in propria persona.

t. The ad hoc committee was established to consider the problem of crime.

u. The grandmother wanted to will all her possessions to her grandchildren, but she did not know whether to do it per capita or per stirpes.

v. De facto segregation exists in many schools.

w. The Supreme Court decision of 1954 (Brown vs. the Board of Education) prohibited de jure segregation in the schools.

x. Congress normally adjourns sine die.

y. Ex post facto laws et al. are unconstitutional.

z. Deeds to houses will frequently contain the owner's name followed by the abbreviation et ux.

3. As an enrichment project, you may ask the pupils to see if they can discover the meaning and history of the legal term "eleemosynary corporation". (The term refers to a charitable organization such as the United Way, the Red Cross, etc. The word "eleemosynary" is from the Latin eleemósyna - "alms" which is, in turn, related to the Greek word eleison - "have mercy" as in the liturgical expression Kýrie eléison.)

LESSON 9

Objectives

To introduce the reading and writing of the Latin expressions introduced orally in the preceding lesson.

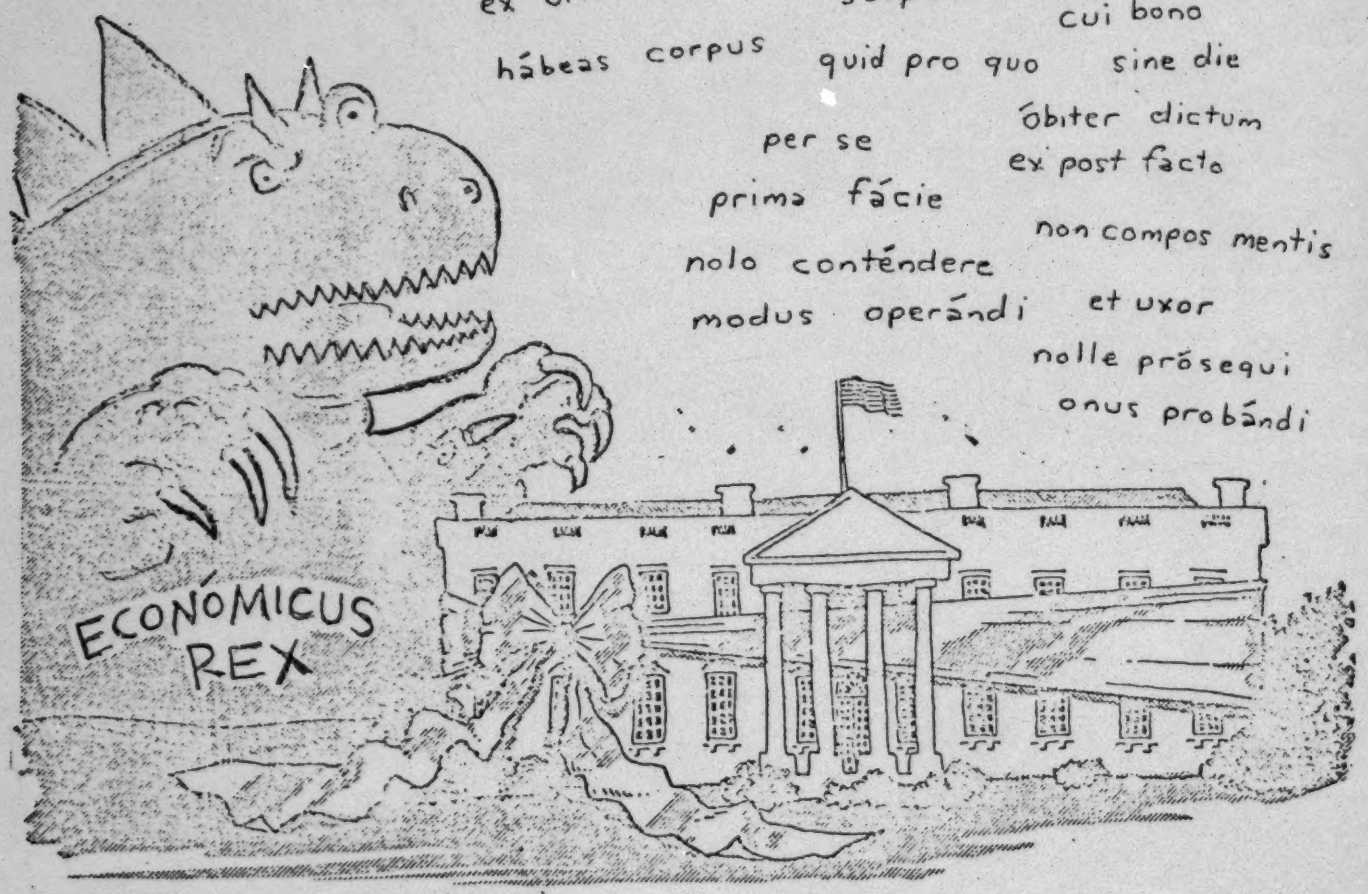
Activities

1. Put the chart which appears in the objectives of the preceding lesson on the board. Have the pupils copy it as you discuss it. Have pupils echo the Latin expressions. circulate around the classroom to be sure that the copying is done carefully and correctly. OR Provide the chart in duplicated form--preferably with the "literal meaning" and "special column" blank, so that pupils can fill it in.

2. Distribute the following word games:

WORDGAME D

pro témpore
pro forma
in própria persona
per stirpes
corpus delicti
in flagránte delícto
ex offício
hábeas corpus
ipso facto
bona fide
mala fide
subpoéna
quid pro quo
de facto
per cápita
ad hoc
de jure
amícus cúriae
et álii
cui bono
sine die
óbiter dictum
per se
ex post facto
prima fácie
non compos mentis
nolo conténdere
modus operándi
et uxor
nolle prósequi
onus probándi



ECONÓMICUS REX IS ABOUT TO CONSUME ALL THE LEGAL LATIN PHRASES FLOATING AROUND OVER THE WHITE HOUSE. BUT HE IS TOO FAT ALREADY. GET THESE PHRASES INTO THE SENTENCES BELOW TO PREVENT ECONÓMICUS REX FROM EATING THEM.

1. When a jury is dismissed s_____ d_____, it is dismissed without a date being set for reconvening.
2. For many years, the United States recognized Nationalist China based on Taiwan as the d___ j_____ or legal government of China, whereas the Communist government on the mainland was clearly the d___ f_____ or actual government.
3. The p_____ c_____ per pupil expenditure for the Philadelphia School District is found by dividing the total expenses for salaries, supplies, etc. by the total number of students.
4. A special committee to investigate drug abuse could be termed an a___ h____ committee.
5. Lawyers caution people against acting i__ p_____ p_____ or without legal counsel in court.
6. An expert on a particular subject can file a brief as a_____ c_____, even though the expert is not directly involved in the case.
7. When given homework, students sometimes ask to know c_____ b_____ the homework is given.
8. The m_____ o_____ in a crime is carefully investigated by police.
9. The o_____ p_____ lies with the accuser.
10. The district attorney was able to arrange a n_____ p_____.
11. People in mental hospitals who cannot manage their own affairs are declared n____ c_____ m_____.
12. A judge's o_____ d_____ is interesting to be read, but it does not have the same legal weight as the decision itself.
13. The privilege of the writ of h_____ c_____ is guaranteed by the U.S. Constitution to prevent long imprisonment without a trial.
14. The Superintendent of Schools is in virtue of the office, or e__ o_____, the secretary of the Board of Education.
15. A defendant may plead innocent, guilty, or n_____ c_____.
16. In the absence of p_____ f_____ evidence that a crime has been committed, no one may be arrested.
17. Automobiles are not destructive p___ s___, but they can be in the hands of an intoxicated driver.
18. One cannot ignore a s____ p_____ without incurring legal penalties.
19. A person who lies deliberately is not acting b____ f____; it could be said that he or she is acting m_____ f_____.
20. A lake that is completely surrounded by the territory of one country is by that very fact or i____ f_____ part of that country's territory.
21. Since everyone knew what had happened, watching the news report on television was p_____ f_____.
22. A p_____ t_____ chairman serves on an interim or temporary basis.
23. A law that was passed on December 1, 1982 and took effect November 1, 1982 would be described as e____ p_____ f_____.
24. Real estate transaction notices use the phrase e____ u____ to indicate that a married couple is involved; the phrase e___ a____ is used to indicate "and other persons".

25. The dentist performed free dental services for his lawyer as a q____ p___ q___ for the lawyer's free legal services.

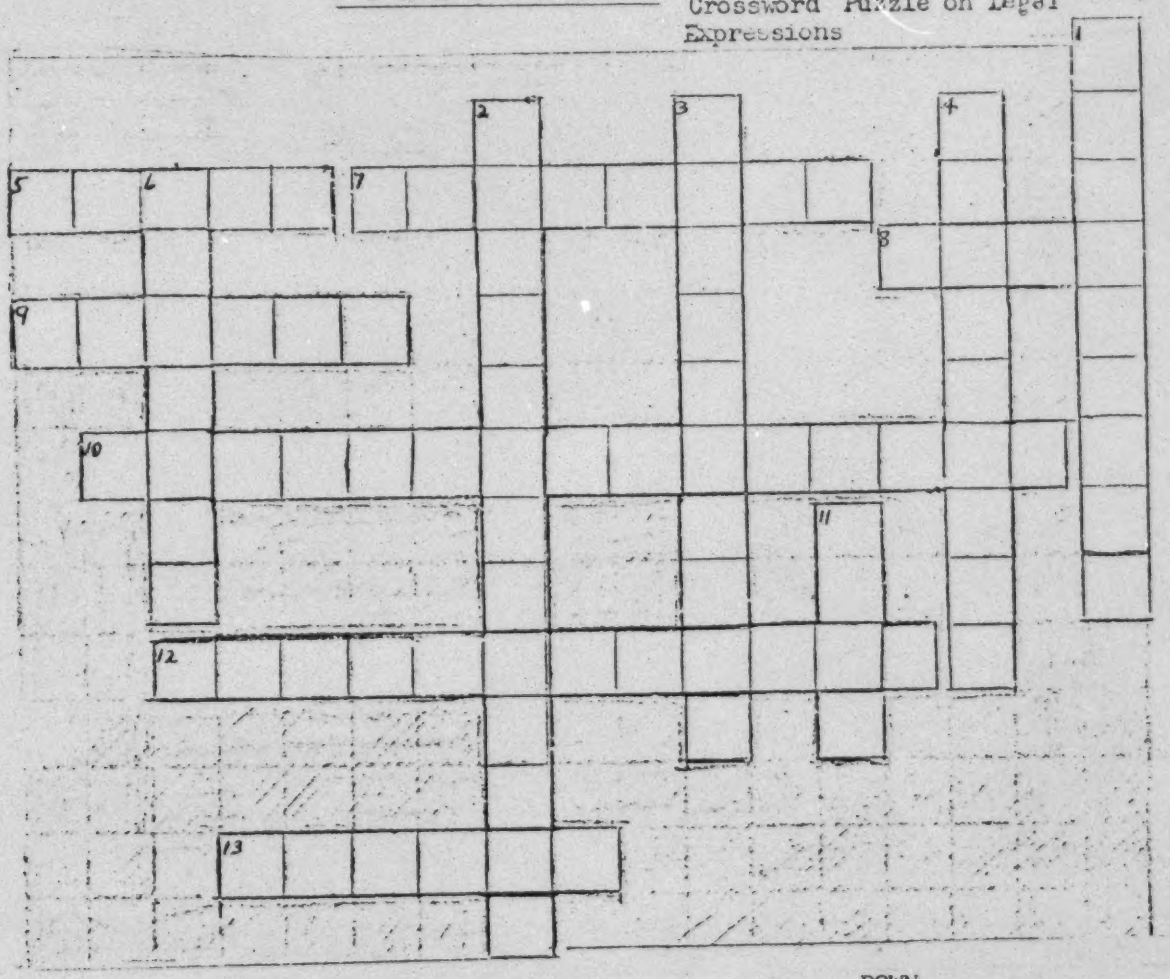
26. The gang was arrested while they were robbing the bank; they were caught i___ f_____ d_____.

27. Without a c_____ d____ a conviction for murder is unlikely.

28. Grandma decides to leave her estate to her grandchildren in such a way that the two grandchildren by her daughter Ingemisco would get ¼ each and the one grandchild by her daughter Lacrimosa would get ½. Such a distribution would be p_____ s_____.

W O R D G A M E E

Crossword Puzzle on Legal Expressions



ACROSS

5. PRIMA _ _ _ _ _. At the first consideration

7. Done to observe a set procedure.

8. _ _ _ _ CONTENDERE. I do not wish to debate (whether I'm guilty or not).

9. _ _ _ _ _ _ _ DICTUM. Mentioned in passing.

10. Not having a healthy mind.

12. Release him. No charges have been made against him.

13. OBITER _ _ _ _ _ _. Not part of the essential text.

DOWN

1. Because of the fact or deed itself.

2. I don't choose to prosecute.

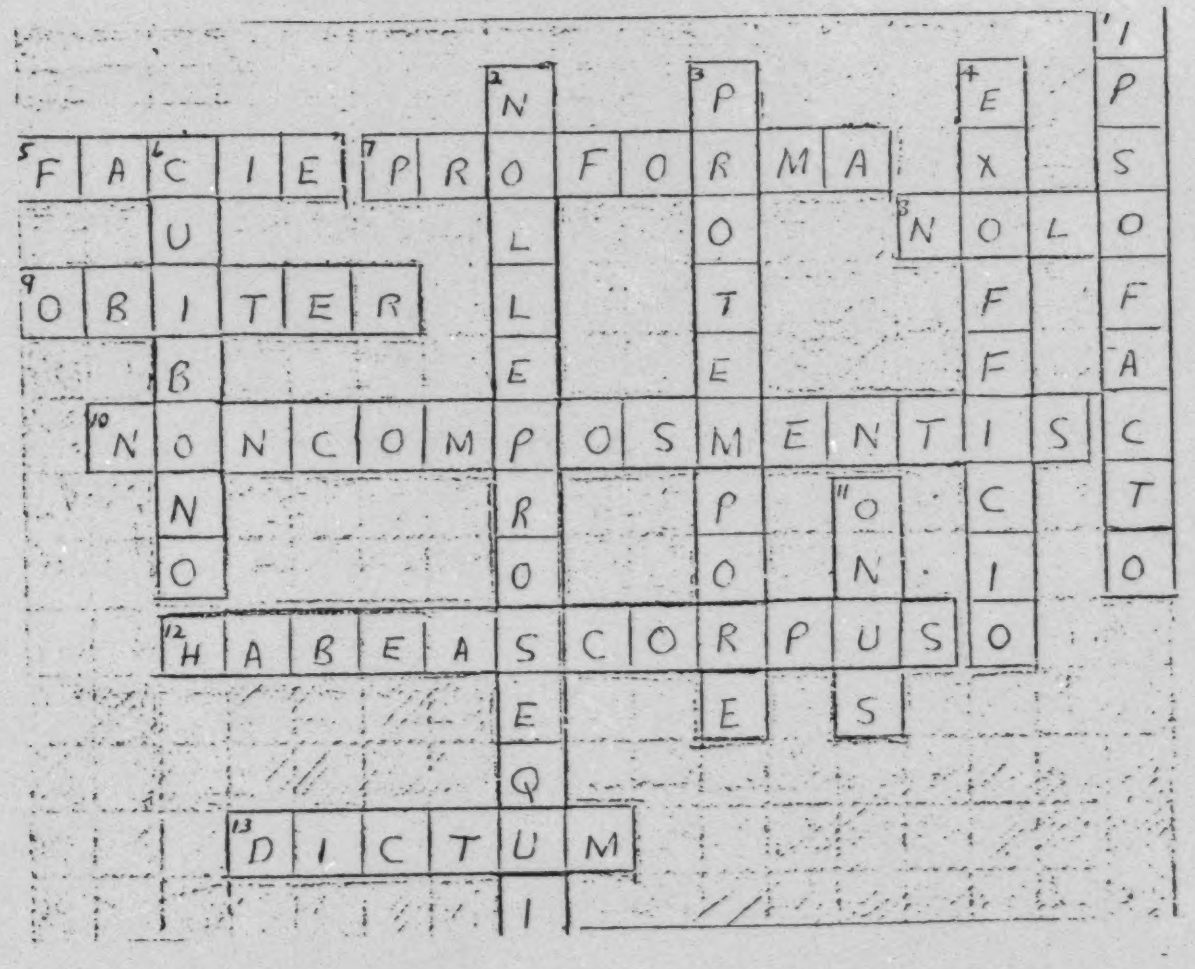
3. Temporarily.

4. Because of the position or rank someone has.

6. For whose benefit?

11. _ _ _ _ PROBANDI. The burden of proof.

K E Y:



ACROSS

5. PRIMA facie. At the first consideration.
7. To observe a set procedure.
8. Nolo CONTENDERE. I do not wish to debate (whether I'm guilty or innocent).
9. Obiter DICTUM. Mentioned in passing.
10. Not having a healthy mind.
12. Release him. No charges have been made against him.
13. OBITER dictum, not part of the essential text.

DOWN

1. Because of the fact itself.
2. I don't choose to prosecute.
3. Temporarily.
4. Because of the position someone holds
6. For whose benefit?
11. Onus PROBANDI. The burden of proof.

FRAME 1

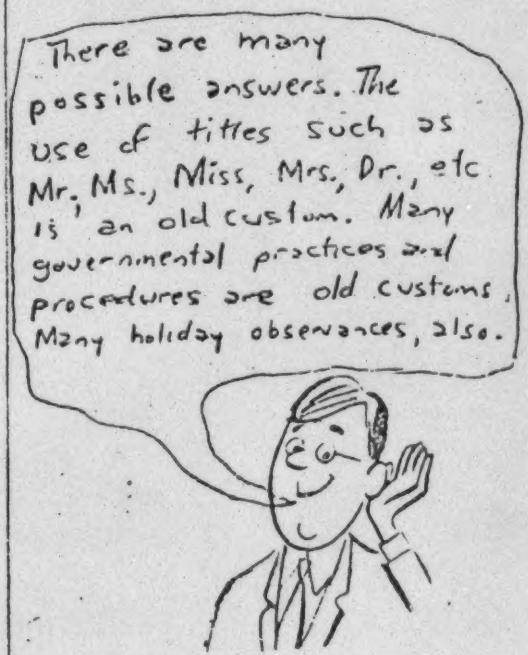
WELCOME TO THESE PROGRAMMED LEARNING MATERIALS! WE ARE GOING TO BE DISCUSSING SOME OF THE LEGAL PRACTICES OF THE ANCIENT ROMANS, SINCE THESE PRACTICES SHED LIGHT ON OUR OWN.

IN THE EARLY DAYS OF THE ROMAN REPUBLIC AND DURING THE STILL EARLIER PERIOD WHEN ROME WAS RULED BY KINGS, THE MORES MAJÓRUM OR "CUSTOMS OF THE ANCESTORS" HAD THE FORCE OF LAW. WRITE THE LATIN PHRASE WHICH MEANS "CUSTOMS OF THE ANCESTORS" ON YOUR ANSWER PAD.

MORES MAJORUM

FRAME 2

OLD CUSTOMS ARE A POWERFUL CONTROLLER OF BEHAVIOR EVEN TODAY. CAN YOU THINK OF ANY OLD CUSTOMS IN YOUR OWN EXPERIENCE THAT HAVE THE FORCE OF LAW?


There are many possible answers. The use of titles such as Mr., Ms., Miss, Mrs., Dr., etc is an old custom. Many governmental practices and procedures are old customs. Many holiday observances, also.

FRAME 3

A SIMPLE BODY OF CUSTOM WOULD BE SUFFICIENT LAW FOR A PRIMITIVE SOCIETY. BUT WHEN CASES OF CONFLICT BETWEEN TWO FAMILIES AROSE, ARBITRATION BY SOME OTHER AUTHORITY BECAME NECESSARY. THE STATE GRADUALLY ASSUMED THIS AUTHORITY. A FAMOUS CODIFICATION OR GATHERING TOGETHER OF EXISTING LAW WAS MADE IN 451 B.C. IN THE PUBLICATION OF THE LAW OF THE TWELVE TABLES. THE TWELVE TABLES WERE CONSIDERED A GREAT LANDMARK IN THE HISTORY OF LIBERTY AND L____.

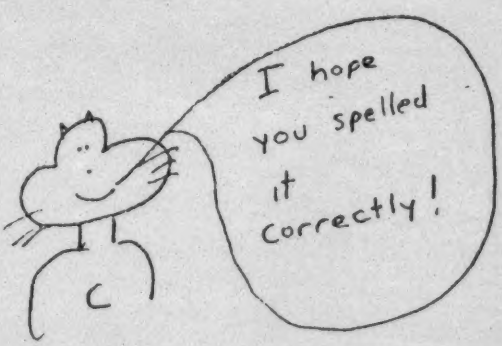
LAW

"This is not the kind of table being referred to in the term Twelve Tables. Tables are tablets on which the laws were written."

FRAME 4

A GROUP OF MAGISTRATES CALLED PRAETORS BECAME THE JUDGES OR LAW OFFICERS IN THE ROMAN REPUBLIC. THEIR DECISIONS CAME TO COMPRISE THE MOST SUBSTANTIAL PART OF LAW IN THE LATE REPUBLIC. THE PRAETORS WOULD FOLLOW IN THE MAIN THE PRECEDENTS ESTABLISHED BY THEIR PREDECESSORS. ON YOUR ANSWER PAD, WRITE THE NAME GIVEN TO A JUDGE OR LAW OFFICER IN THE LATE ROMAN REPUBLIC.

PRAETOR



FRAME 5

THE PROCESS OF INTERPRETING THE LAW WAS ASSISTED BY A CLASS OF LEGAL EXPERTS KNOWN IN LATIN AS PRUDÉNTES OR JURIS CONSÚLTI. THESE LAWYERS RECEIVED NO PAY. THEIR RESPÓNSA OR ANSWERS WERE ORDINARILY BASED ON PRINCIPLES TAKEN FROM PRECEDENTS AND ON PHILOSOPHIC GROUNDS, BUT THE ROMAN ESSAYIST SENECA THE YOUNGER SAYS THAT THE PERSONAL PRESTIGE OF THE LAWYER CARRIED A LOT OF WEIGHT. FOR PRACTICE, WRITE THE TERMS PRUDÉNTES, JURIS CONSÚLTI, AND RESPÓNSA ON YOUR ANSWER PAD:

FRAME 6

THERE WERE A FEW GREAT JURISTS OF THE ROMAN EMPIRE WHO DESERVE TO BE MENTIONED. MANY OF THEM HELD THE OFFICE OF PREFECT OF THE CITY, WHICH IN THEIR DAY, GAVE THEM LEGAL, ADMINISTRATIVE, AND MILITARY POWER SECOND ONLY TO THE EMPEROR. JULIAN, PAPINIAN, ULPIAN, PAUL, POMPONIUS, AND GAIUS WERE THEIR NAMES. WHAT THEY WROTE AND THOUGHT WAS LATER INCORPORATED INTO THE GREAT CODIFICATION OF ROMAN LAW DONE BY THE EMPEROR JUSTINIAN IN THE 6TH CENTURY A.D. YOU MAY NOT BE ABLE TO REMEMBER THE NAMES OF THE OTHER JURISTS, BUT YOU CERTAINLY SHOULD REMEMBER THE EMPEROR JUSTINIAN FOR HIS GREAT _____.

CODIFICATION OF ROMAN LAW

FRAME 7

THE ROMAN LAW WHICH PERTAINED TO ROMAN CITIZENS OR CIVES WAS CALLED THE JUS CIVÍLE. WHEN THE ROMANS ASSUMED PROVINCIAL RESPONSIBILITIES IN VARIOUS PARTS OF EUROPE, AFRICA, AND ASIA, THEY DID NOT TRY TO IMPOSE A RIGID ROMAN SYSTEM ON THE MANY RACES AND COMMUNITIES WITHIN THE EMPIRE. THE ROMAN ADMINISTRATORS TRIED TO BUILD, AS FAR AS THEY COULD, ON THE EXISTING TRADITIONS OF THE PROVINCES. THEY NOTICED COMMON PRINCIPLES AMONG DIFFERENT PEOPLES, WHICH THE LEGAL EXPERTS CALLED JUS GÉNTIUM ("THE LAW OF THE NATIONS"). THEY ALSO RECOGNIZED THE "LAW OF NATURE", JUS NATURÁLE, WHICH CONSISTED OF PRINCIPLES BINDING ON ALL HUMAN BEINGS EQUALLY AS SHARERS IN DIVINE REASON.

a. JUS CIVÍLE IS THE CIVIL LAW OR LAW THE APPLIES TO ROMAN CITIZENS.

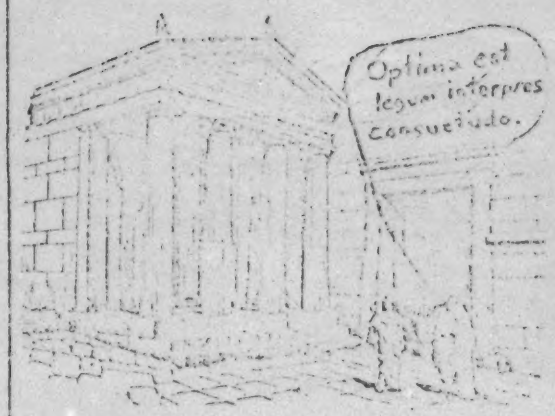
b. JUS GÉNTIUM IS THE "LAW OF THE NATIONS" OR COMMON LEGAL PRINCIPLES AMONG MANY PEOPLE.

c. JUS NATURÁLE IS THE "LAW OF NATURE" OR PRINCIPLES BINDING ON ALL HUMAN BEINGS EQUALLY AS SHARERS IN DIVINE REASON.

FRAME 8

THE ROMAN LEGAL EXPERTS WORKED OUT MANY FAMOUS MAXIMS WHICH IN SOME WAYS GIVE US THE "FLAVOR OF ROMAN LAW." SOME OF THE MAXIMS ARE GIVEN IN THE FRAMES THAT FOLLOW IN ENGLISH TRANSLATION AND THEN IN LATIN. READ EACH MAXIM IN ENGLISH AND THEN IN LATIN. THE SOURCE OF THE MAXIM IS GIVEN IN PARENTHESIS.

"THE BEST INTERPRETER OF THE LAWS IS CUSTOM." (JULIUS PAULUS, ROMAN JURIST OF THE 3RD CENTURY A.D.)



ÓPTIMA EST LEGUM INTÉRPRES CONSUETÚDO.

FRAME 9

"TO KNOW LAWS IS TO GRASP NOT MERELY THEIR WORDS, BUT THEIR FORCE AND POWER." (CELSUS, ROMAN JURIST OF THE 1ST CENTURY A.D., AUTHOR OF A MANUAL ON LAW)

SCIRE LEGES NON HOC EST VERBA EÁRUM TENÉRE, SED VIM AC POTESTÁTEM.

FRAME 10

"BY NO MEANS ARE THOSE THINGS TO BE CHANGED THAT HAVE ALWAYS HAD A CERTAIN INTERPRETATION." (JULIUS PAULUS)

MÍNIME SUNT MUTÁNDA EA QUAE INTERPRETATIÓNEM CERTAM SEMPER HABUÉRUNT.

FRAME 11

"LAWS SHOULD BE INTERPRETED IN THE MORE GENEROUS SPIRIT SO THAT THEIR WILL MAY BE PRESERVED." (CELSUS)

BENÍGNIUS LEGES INTERPRETÁNDAE SUNT QUO VOLÚNTAS EÁRUM SERVÉTUR.

FRAME 12

"IN DOUBTFUL MATTERS, ALWAYS THE KINDER SPIRIT IS TO BE PREFERRED."

(GAIUS, RENOWNED ROMAN JURIST OF THE 2ND CENTURY A.D., AUTHOR OF A LAW TEXTBOOK CALLED INSTITUTA)

SEMPER IN DÚBIIS BENIGNIÓRA PRAEFERÉNDA SUNT.

FRAME 13

IT WAS DURING THE LATER ROMAN EMPIRE THAT THE GREAT CODIFICATIONS OF ROMAN LAW WERE MADE. IN THE 5th CENTURY A.D., AN IMPORTANT CODIFICATION WAS MADE BY COMMAND OF THE EMPEROR THEODOSIUS THE GREAT. IN THE 6th CENTURY A.D., AS WE HAVE ALREADY NOTED, THE MOST IMPORTANT CODIFICATION WAS MADE UNDER THE COMMAND OF THE EMPEROR J_____.

JUSTINIAN

FRAME 14

AS WE MENTIONED BEFORE, THE CODE OF JUSTINIAN (CALLED SOMETIMES BY ITS LATIN NAME, CODEX JUSTINIÁNI OR CORPUS JURIS CIVÍLIS) IS THE FOUNDATION OF THE ROMAN LAW USED IN A VERY LARGE PART OF THE WORLD TODAY. ROMAN LAW TODAY IS USED IN ALL COUNTRIES AND AREAS WHERE THE ROMANCE LANGUAGES ARE SPOKEN. THE CHIEF ROMANCE LANGUAGES ARE SPANISH, F_____, P_____, I_____, AND R_____

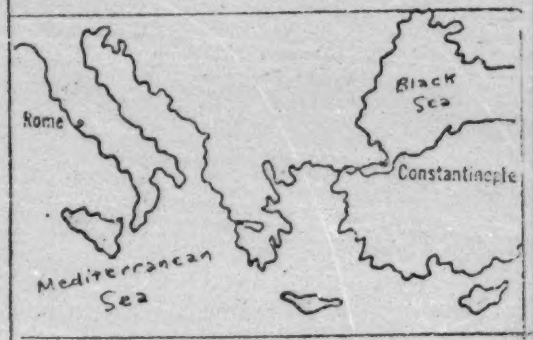
FRENCH, PORTUGUESE, ITALIAN, ROUMANIAN. THESE LANGUAGES ARE DERIVED FROM LATIN, THE LANGUAGE OF THE ANCIENT ROMANS. HENCE THEY ARE CALLED ROMANCE LANGUAGES.

FRAME 17

TURKEY ALSO USES ROMAN LAW, PROBABLY BECAUSE THE ROMAN EMPIRE SURVIVED IN WHAT IS NOW TURKEY UNTIL 1453 A.D. IN 1453, THE GREAT CITY OF CONSTANTINOPLE, THE LAST OUTPOST OF THE EASTERN ROMAN OR BYZANTINE EMPIRE, WAS CAPTURED BY THE TURKS. NOTE THE LOCATION OF CONSTANTINOPLE ON THE MAP IN THE RIGHT HAND COLUMN. THE TURKS RECOGNIZED A GOOD THING LIKE ROMAN LAW WHEN THEY SAW IT AND ADOPTED IT FOR THEIR OWN EMPIRE.

THE EASTERN ROMAN OR B_____ EMPIRE HELPED TO PRESERVE ANCIENT GREEK AND ROMAN LAW, LITERATURE, CULTURE, AND CIVILIZATION ALMOST TO THE TIME OF CHRISTOPHER COLUMBUS.

BYZANTINE

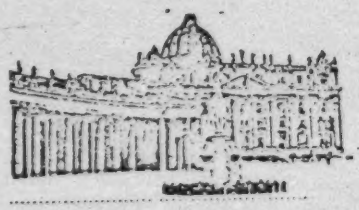


(NOTE THAT CONSTANTINOPLE IS NOW CALLED ISTANBUL BY THE TURKS.)

FRAME 18

ONE IMPORTANT WORLDWIDE ORGANIZATION WHICH USES A FORM OF ROMAN LAW IS THE ROMAN CATHOLIC CHURCH. ITS CODEX JURIS CANÓNICI OR CODE OF CANON LAW IS DERIVED FROM JUSTINIAN'S CODE. THE CHURCH, IN FACT, IS SOMETIMES CITED AS A SUCCESSOR TO THE ROMAN EMPIRE IN ITS ORGANIZATION, PRESERVATION OF CLASSICAL TRADITIONS, THE LOCATION OF ITS CENTRAL GOVERNMENT IN ROME, ITS USE OF THE LATIN LANGUAGE, AND, OF COURSE, ITS USE OF ROMAN L_____.

LAW



FRAME 19

AS WE HAVE NOTED PREVIOUSLY, THE OTHER GREAT SYSTEM OF LAW BESIDES ROMAN LAW USED IN THE WORLD TODAY IS COMMON LAW. THIS SYSTEM IS USED IN THE UNITED KINGDOM (WHERE IT ORIGINATED), IN THE UNITED STATES, AND IN THE COUNTRIES OF THE COMMONWEALTH (i.e., THE 44 OR SO NATIONS THAT USED TO BE PART OF THE BRITISH EMPIRE AND WHERE ENGLISH IS WIDELY USED). CAN YOU NAME SOME COMMONWEALTH COUNTRIES?

CHECK WITH A RECENT ENCYCLOPAEDIA FOR A COMPLETE LIST. SOME OF THE MEMBERS OF THE COMMONWEALTH ARE:

CANADA, AUSTRALIA, NEW ZEALAND, NIGERIA, GHANA, KENYA, TANZANIA, THE GAMBIA GUYANA, BELIZE, JAMAICA, GRENADA, TRINIDAD-TOBAGO, MALTA, CYPRUS, INDIA, BENGLADESH, THE BAHAMAS, BARBADOS, BOTSWANA, DOMINICA, FIJI, KIRIBATA, LESOTHE, MALAWI, MALAYSIA, MAURITIUS, NAURU, PAPUA-NEW GUINEA, ST. LUCIA, THE SEYCHELLES, SIERRA LEONE SINGAPORE, SOLOMON ISLAND, SRI LANKA, TONGA, TUVULU, WESTERN SAMOA, SWAZILAND, UGANDA, ZAMBIA

FRAME 20

SEVERAL ENGLISH-SPEAKING COUNTRIES OUTSIDE THE COMMONWEALTH USE COMMON LAW. THE UNITED STATES IS ONE EXAMPLE. OTHERS ARE IRELAND, BURMA AND PAKISTAN. IN GENERAL, COUNTRIES WHERE ENGLISH IS USED USE COMMON LAW. COUNTRIES WHERE ROMANCE LANGUAGES OR LANGUAGES OTHER THAN ENGLISH ARE USED USE R_____ LAW.

ROMAN

FRAME 21

COMMON LAW IS GREATLY IN DEBT TO ROMAN LAW. IN FACT, COMMON LAW, WHICH TRADITIONALLY HAS RELIED HEAVILY ON LEGAL PRECEDENTS, IS GROWING CLOSER TO ROMAN LAW WITH ITS EMPHASIS ON CODIFICATION. MANY EMINENT LAWYERS HOLD THAT THE STUDY OF ROMAN LAW IS AN EXCELLENT PREPARATION FOR THE PRACTICE OF COMMON LAW. READ IN THE RIGHT-HAND COLUMN WHAT LORD CHIEF JUSTICE HEWART SAID TO THE CANADIAN BAR ASSOCIATION ABOUT ROMAN LAW.

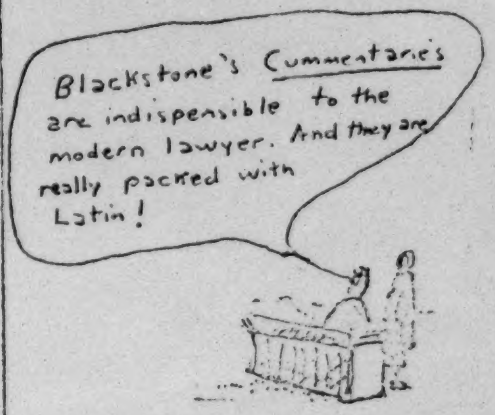
"IT IS IN THEIR COMMAND OF LEADING PRINCIPLES AND THE CERTAINTY WITH WHICH THEY APPLY THOSE PRINCIPLES TO CONCRETE CASES THAT THE ROMAN JURISTS EXCEL. A LAWYER, IT GOES WITHOUT SAYING, ALWAYS SEEKS THE PRINCIPLE UNDERLYING THE DECISION OF ANY CASE WHICH HE MAY CONSULT, OR UPON WHICH HE MAY RELY IN ARGUMENT. HE WANTS THE RATIO DECIDENDI*, AND HAVING FOUND IT, ASKS HIMSELF WHAT IS THE REASON FOR THE RULE. WHEN HE HAS OBTAINED CLEAR PERCEPTION OF THE PRINCIPLE, HE IS THE MORE ABLE TO DETERMINE WHETHER THE CASE HE RELIES UPON, THE FACTS WHICH MAY AT FIRST SIGHT APPEAR TO BE ALMOST ON ALL FOURS WITH THOSE OF HIS OWN CASE, REALLY SUPPORT THAT CASE, OR WHETHER THE TWO CASES ARE DISTINGUISHABLE."

* the reason or justification for a decision

FRAME 22

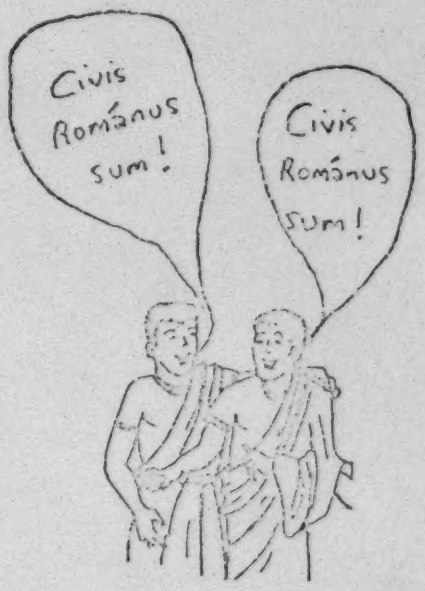
THE FAMOUS BRITISH JURIST OF THE 18th CENTURY, SIR WILLIAM BLACKSTONE, WROTE COMMENTARIES ON COMMON LAW. EVEN A CASUAL LOOK AT THE COMMENTARIES WILL REVEAL THE IMPORTANCE OF LATIN PHRASES AND WORDS IN COMMON LAW, AS WELL AS THE INFLUENCE OF ROMAN LAW OVER _____ _____.

COMMON LAW



FRAME 23

ROMAN LAW FILLS SEVERAL STOUT VOLUMES. WE CAN ONLY LOOK HERE AT A FEW OF ITS FEATURES. IT DEFINES, FOR ONE THING, THE RIGHTS OF A FULL-FLEDGED CIVIS OR CITIZEN. THE RIGHTS INCLUDE: OWNERSHIP OF PROPERTY, DOING BUSINESS, INHERITANCE, WILL-MAKING, MARRIAGE, VOTING, AND OFFICE HOLDING. BEING A CITIZEN WAS CONSIDERED VERY DESIRABLE. A ROMAN CITIZEN COULD SAY WITH PRIDE CIVIS RÓMÁNUS SUM! ("I AM A ROMAN CITIZEN"). IN HIS FAMOUS SPEECH IN BERLIN, PRESIDENT JOHN F. KENNEDY QUOTED IN LATIN THIS ANCIENT MAXIM. REPEAT IT SEVERAL TIMES TO YOURSELF UNTIL YOU HAVE LEARNED IT.

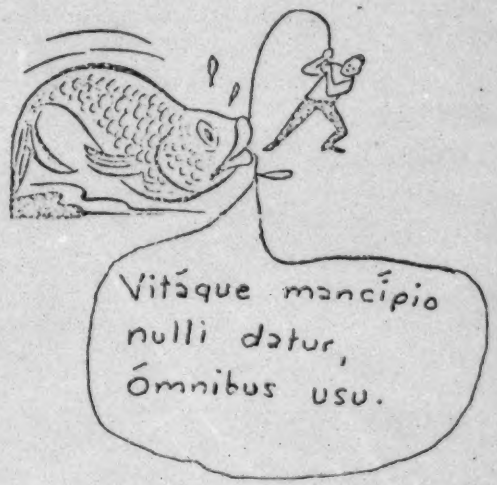


PRESIDENT KENNEDY TALKED ABOUT THE PRIDE WITH WHICH PEOPLE IN ANTIQUITY WOULD SAY CIVIS ROMANUS SUM! HE WENT ON TO SAY THAT MODERN PEOPLE COULD SAY WITH THE SAME KIND OF PRIDE ICH BIN EIN BERLINER, WHICH IS GERMAN FOR "I AM A BERLINER."

FRAME 24

ROMAN LAW ALSO DEFINED PROPERTY RIGHTS. SUCH DISTINCTIONS AS ABSOLUTE OWNERSHIP AND SQUATTERS' RIGHTS AND LICENSED USE ARE MADE. THESE DISTINCTIONS WERE IMPORTANT TO THE ROMANS AND EVEN MADE THEIR APPEARANCE IN LITERATURE. FOR INSTANCE, THE GREAT ROMAN POET, LUCRETIUS, SAYS THAT "LIFE IS GIVEN TO NONE OUTRIGHT, BUT TO ALL AS TENANTS." READ THE LATIN OF THIS FAMOUS REMARK FROM THE RIGHT-HAND COLUMN. LUCRETIUS WROTE ABOUT THE ATOMIC THEORY. YOU MAY WANT TO LEARN MORE ABOUT HIM IN THE ENCYLOPAEDIA.

VITÁQUE MANCÍPIO NULLI DATUR,
ÓMNIBUS USU.



FRAME 25

THE ROMANS VALUED CONTRACTS HIGHLY. THEY VALUED WRITTEN CONTRACTS AS MUCH AS WE DO, BUT ORAL CONTRACTS MORE THAN WE DO. IN FACT, THEY PREFERRED ORAL CONTRACTS TO ANY OTHER KIND. CAN YOU THINK OF AN EXAMPLE OF AN ORAL CONTRACT?

TWO EXAMPLES ARE:

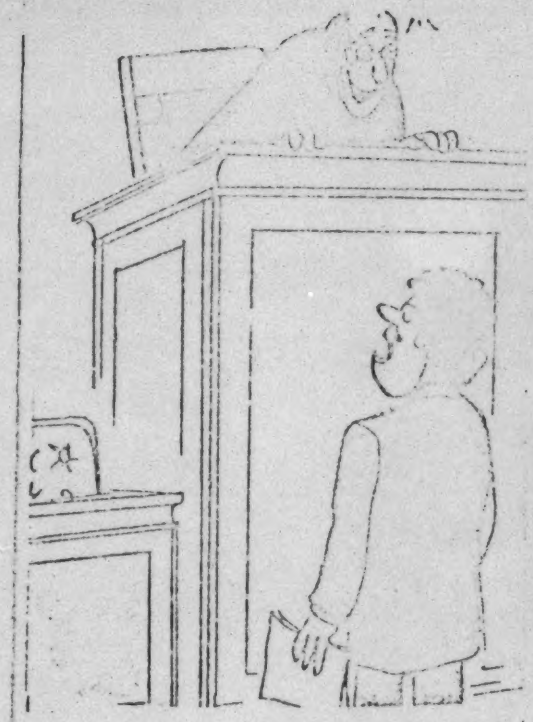
(1) MAKING A LOAN FROM A FRIEND AND AGREEING TO REPAY THE LOAN BY A CERTAIN TIME WITH NO WRITTEN AGREEMENT;

(2) RENTING AN APARTMENT WITH AN ORAL LEASE (i.e., A NON-WRITTEN AGREEMENT ABOUT HOW MUCH THE RENT IS, ETC.) ORAL LEASES ARE COMMON IN SOUTH PHILADELPHIA, BRIDESBURG, AND CERTAIN OTHER PARTS OF THE CITY.

FRAME 26

SOME OF THE PROCEDURES USED IN ROMAN COURTS ARE INTERESTING AND ARE STILL IN USE TODAY. IN A TRIAL, THE PRAETOR ("JUDGE") DETERMINED WHAT LEGAL PRINCIPLE WAS INVOLVED. THE JÚDICES ("JURY" OR "SUBORDINATE JUDGES") FOUND OUT THE FACTS IN THE CASE. THE JÚDICES ACTED ON "INSTRUCTIONS" (FÓRMULA) FROM THE PRAETOR.

MODERN LEGAL PRACTICE, LIKEWISE, RESERVES POINTS OF LAW TO THE TRAINED JUDGE, WHILE FINDING OUT THE FACTS IS LEFT TO THE COMMON SENSE AND JUDGEMENT OF AN UNTRAINED JURY. THE JURY RECEIVES INSTRUCTIONS REGARDING THE LAW FROM THE JUDGE.



"YOUR HONOR, MAY I REMIND YOU THAT YOU ARE THE MODERN EQUIVALENT OF THE PRAETOR AND THAT YOU ARE SUPPOSED TO GIVE INSTRUCTIONS OR FÓRMULA TO THE JURY, WHICH IS THE MODERN EQUIVALENT OF THE JÚDICES."

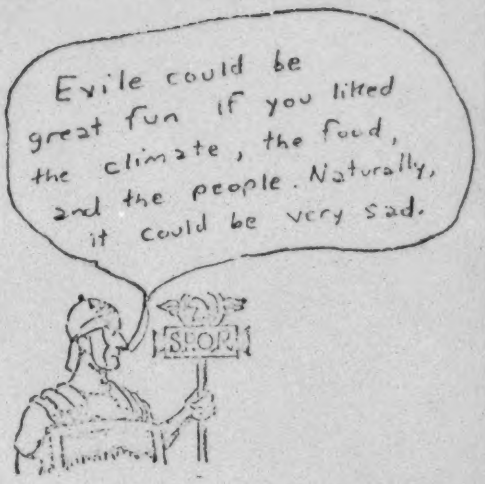
FRAME 27

ROME NEVER PROVIDED FOR A PUBLIC PROSECUTING ATTORNEY IN CRIMINAL CASES. INSTEAD, THERE WERE VOLUNTARY PROSECUTIONS ON THE PART OF AMBITIOUS YOUNG LAWYERS WITH REPUTATION TO MAKE. CAN YOU THINK OF ANY PROBLEMS THAT MIGHT BE CREATED BY A LACK OF A PUBLIC PROSECUTING ATTORNEY?

CULPRITS MIGHT ESCAPE BY FINDING ACCOMPLICES TO PROSECUTE THEM.

FRAME 28

PENALTIES INCLUDED FINES (CALLED MULTAE) OR EXILE FROM ROME OR ITALY. IN THE LATE REPUBLIC, THE DEATH PENALTY WAS NOT USED VERY OFTEN, AND IF IMPOSED, IT COULD USUALLY BE AVOIDED BY VOLUNTARY EXILE. ALTHOUGH EXILE WAS A SERIOUS PUNISHMENT FOR SOME, IT COULD ALSO BE VERY PLEASANT.



FRAME 29

UNDER THE EMPIRE, PENALTIES GREW MORE SEVERE. THE DEATH PENALTY WAS USED INCREASINGLY. VOLUNTARY EXILE WAS NO LONGER PERMITTED AS A SUBSTITUTE, THOUGH DISTINGUISHED PERSONS CONVICTED OF POLITICAL OFFENCES WERE OFTEN PERMITTED TO COMMIT SUICIDE. FLOGGING, BEHEADING, CRUCIFIXION, AND DEATH IN THE ARENA BY COMBAT WITH PEOPLE OR WILD ANIMALS CAME INTO USE. DEPORTATION TO A REMOTE ISLAND, PENAL SERVITUDE, AND TORTURE FOR THE EXAMINATION OF WITNESSES WERE ALSO PUT INTO USE.

CRUCIFIXION WAS EVENTUALLY ABOLISHED AT THE TIME OF CONSTANTINE THE GREAT BECAUSE OF

_____ _____.

RELIGIOUS CONSIDERATIONS

LESSON 11

Objectives

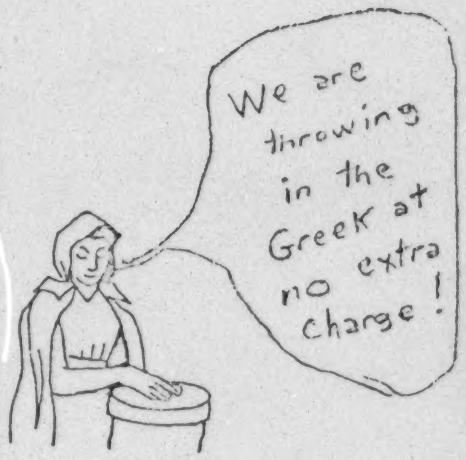
To acquaint pupils with some interesting passages from Greek and Latin literature dealing with the law.

Activities

Have the pupils work through the following frames of programmed learning materials in the way suggested in the previous lesson.

FRAME 30

IN THE FRAMES WHICH FOLLOW, WE ARE GOING TO READ SOME INTERESTING PASSAGES FROM GREEK AND LATIN LITERATURE PERTAINING TO LAW. ALTHOUGH WE ARE FOCUSING ON LEGAL LATIN AND ROMAN LAW, GREEK CIVILIZATION AND LITERATURE ARE SO CLOSELY CONNECTED WITH ROME THAT WE CANNOT SEPARATE THE TWO.



FRAME 31

IN EARLY GREEK TIMES, THE LAW WAS SIMPLE AND PRIMITIVE. EVERY MURDER HAD TO BE AVENGED BY A MEMBER OF THE FAMILY, WHICH, IN TURN, LED TO ADDITIONAL MURDERS IN ENDLESS CYCLE. THE FURIES WERE DIVINE POWERS WHO SPRANG FROM THE BLOOD OF URANUS, THE SKY, WHEN HE WAS ATTACKED BY HIS SON, SATURN, USING A SICKLE. THEY TRACKED DOWN MURDERERS AND PURSUED WHOEVER IGNORED HER OR HIS OBLIGATION TO AVENGE THE BLOOD OF A KINSMAN. THE LAW OF VENGENCE, OR LEX TALIÓNIS, PREVAILED--AN EYE FOR AN EYE, A TOOTH FOR A TOOTH. COPY THE TERM LEX TALIÓNIS ONTO YOUR ANSWER PAD CAREFULLY. THEN EXPLAIN WHAT IT IS IN YOUR OWN WORDS.

LEX TALIÓNIS

THE LAW OF VENGENCE, i.e., AN EYE FOR AN EYE, A TOOTH FOR A TOOTH.

FRAME 32

THE GREEKS TRANSFORMED THE LEX TALIÓNIS AND EVOLVED A MORE HUMANE SOLUTION TO THE OBLIGATION FOR REVENGE--A TRIAL IN WHICH A MAN IS JUDGED INNOCENT OR GUILTY BY A JURY OF HIS PEERS OR EQUALS. THE MOST FAMOUS EXAMPLE OF THIS TRANSFORMATION IS SEEN IN THE TRILOGY CALLED THE ORESTÉIA BY AESCHYLUS, THE GREAT GREEK PLAYWRIGHT. IN THE ORESTÉIA, ORESTES IS DUTY BOUND TO AVENGE THE MURDER OF HIS FATHER, AGAMEMNON. TO DO SO, HE MUST PERFORM THE HORRENDOUS DEED OF MURDERING HIS MOTHER, CLYTEMNESTRA. UNSURE OF WHAT TO DO, ORESTES GOES TO DELPHI TO CONSULT THE ORACLE. APOLLO'S ADVICE IS CLEAR. EVERY DEATH MUST BE AVENGED.

AFTER ORESTES MURDERS HIS MOTHER, THE FURIES PURSUE HIM RELENTLESSLY. FINALLY, ORESTES GOES TO ATHENS TO THE WISDOM GODDESS, ATHENA, FOR SANCTUARY. THERE, ATHENA SAYS THAT THE CASE IS TOO IMPORTANT TO BE DECIDED BY HER ALONE AND APPOINTS 12 WISE ATHENIANS TO HEAR THE CASE,WITH HER AS JUDGE.

Before proceeding be sure that you are able to identify the following persons: Agamemnon, Clytemnestra, Aeschylus, Orestes, and Athena. If you need help, go back to the left column.

FRAME 33

THE GOD APOLLO WANTS ORESTES TO BE FREE OF THE HOUNDING OF THE FURIES. THE FURIES ARE ANGRY AND CLAIM THAT IT IS THEIR RIGHT AND OBLIGATION TO PURSUE ORESTES, ESPECIALLY SINCE THEY ARE OLDER THAN APOLLO. THE VOTE OF THE JURY IS TIED, 6-6. ATHENA CASTS THE DECIDING VOTE FOR ACQUITTAL. TO SOOTH THE FEELINGS OF THE FURIES, ATHENA OFFERS THEM A PLACE OF HONOR IN HER CITY AS THE EUMÉNIDES, OR DISPENSERS OF BENEFIT AND GOOD FORTUNE.

FRAME 34

NOW LET'S READ SOME OF THE STORY OF THE TRIAL IN A TRANSLATION OF THE ORESTÉIA OF AESCHYLUS BY RICHMOND LATTIMORE. REMEMBER THAT YOU ARE READING POETRY THAT IS VERY VERY ANCIENT. QUESTIONS APPEAR IN THE RIGHT-HAND COLUMN TO HELP YOU APPRECIATE THE POETRY.

THE SCENE OPENS WITH ORESTES SPEAKING TO THE WISDOM GODDESS, ATHENA.

Orestes:

Lady Athene, first I will take the difficult thought
away that lies in these last words you spoke. I am of
Argos and it is to my honor that you ask the name
of my father, Agamemnon, lord of seafarers,
and your companion when you made the Trojan city
of Ilium no city any more. He died
without honor when he came home. It was my mother
of the dark heart, who entangled him in subtle gyves
and cut him down. The bath is witness to his death.
I was an exile in the time before this. I came back
and killed the woman who gave me birth. I plead guilty

My father was dear, and this was vengeance for his blood.
Apollo shares responsibility for this.
He counterspurred my heart and told me of pains to come
if I should fail to act against the guilty ones.
This is my case. Decide if it be right or wrong.
I am in your hands. Where my fate falls, I shall accept.

Athene:

The matter is too big for any mortal man
who thinks he can judge it. Even I have not the right
to analyse cases of murder where wrath's edge
is sharp, and all the more since you have come and clung
a clean and innocent supplicant, against my doors.
You bring no harm to my city. I respect your rights.

Yet these, too, have their work. We cannot brush them aside,
and if this action so runs that they fail to win,
the venom of their resolution will return
to infect the soil, and sicken all my land to death.
Here is dilemma. Whether I let them stay or drive
them off, it is a hard course and will hurt. Then, since
the burden of the case is here, and rests on me,
I shall select judges of manslaughter, and swear
them in, establish a court into all time to come.

Litigants, call your witnesses, have ready your proofs
as evidence under bond to keep this case secure.
I will pick the finest of my citizens, and come
back. They shall swear to make no judgement that is not
just, and make clear where in this action the truth lies.

(Exit)

(Eumenides 443 et seq.)

a. Who was Agamemnon?

b. How did Agamemnon die according to Orestes?

c. Why does Athena want to establish a court for "all time to come?"

d. Athena is the symbol and personification of wisdom and, in a sense, is wisdom. Is she saying that "the finest of her citizens are wiser than wisdom itself?

e. Do you feel sympathetic towards Orestes? Why, or why not?

FRAME 35

Chorus of Furies:

Here is overthrow of all
the young laws, if the claim
of this matricide shall stand
good, his crime be sustained.
Should this be, every man will find a way
to act at his own caprice;
over and over again in time
to come, parents shall await
the deathstroke at this children's hands.

We are the Angry Ones. But we
shall watch no more over works
of men, and so act. We shall
let loose indiscriminate death.
Man shall learn from man's lot, forejudge
the evils of his neighbor's case,
see respite and windfall in storm:
pathetic prophet who consoles
with strengthless cures, in vain.

a. Why do the Furies believe that the House of Justice has collapsed?

b. Do you agree with the statement of the Furies that there is "advantage in the wisdom won from pain?"

c. What do the Furies threaten to do?

Nevermore let one who feels
the stroke of accident, uplift
his voice and make outcry, thus:
"Oh Justice!
Throned powers of the Furies, help!"
Such might be the pitiful cry
of some father, of the stricken
mother, their appeal. Now
the House of Justice has collapsed.

There are times when fear is good.
It must keep its watchful place
at the heart's controls. There is
advantage
in the wisdom won from pain.
Should the city, should the man
rear a heart that nowhere goes
in fear, how shall such a one
any more respect the right?

(Eumenides, 490 et. seq.)

FRAME 36

(Athene re-enters, guiding twelve citizens chosen as jurors and attended by a herald. Other citizens follow.)

Athene:

Herald, make proclamation and hold in the host
assembled. Let the stabbing voice of the Etruscan
trumpet, blown to the full with mortal wind, crash out
its high call to all the assembled populace.
For in the filling of this senatorial ground
it is best for all the city to be silent and learn
the measures I have laid down into the rest of time.
So too these litigants, that their case be fairly tried.

(Trumpet call. All take their places. Enter Apollo.)

Chorus:

My lord Apollo, rule within your own domain
What in this matter has to do with you? Declare.

Apollo:

I come to testify. This man, by observed law,
came to be as suppliant, took his place by hearth and hall,
and it was I who cleaned him of the stain of blood.
I have also come to help him win his case. I bear
responsibility for his mother's murder.

(To Athene)

You
who know the rules, initiate the trial, preside.

a. Why does Apollo want to help Orestes?

b. Why is Orestes not afraid?

c. Who is "The Prophet"?

d. Why didn't the Furies threaten Clytemnestra?

Athene (to the Furies):

I declare the trial opened. Yours is the first word.
For it must justly be the pursuer who speaks first
and opens the case, and makes plain what the action is.

Chorus:

We are many, but we shall cut it short. You, then
word against word answer our charges one by one
Say first, did you kill your mother or did you not?

Orestes:

Yes, I killed her. There shall be no denial of that.

Chorus:

There are three falls in the match and one has gone to us.

Orestes:

So you say. But you have not even thrown your man

Chorus:

So, Then how did you kill her? You are bound to say.

Orestes:

I do. With drawn sword in my hand I cut her throat.

Chorus:

By whole persuasion and advice did you do this?

Orestes:

By order of this god, here. So he testifies.

Chorus:

The prophet guided you into this matricide?

Orestes:

Yes. I have never complained of this. I do not now.

Chorus:

When sentence seizes you, you will talk a different way.

Orestes:

I have no fear. My father will aid me from the grave.

Chorus:

Kill your mother, then put trust in a corpse! Trust on.

Orestes:

Yes. She was dirtied twice over with disgrace.

Chorus:

Tell me how, and explain it to the judges here.

Orestes:

She murdered her husband, and thereby my father too.

Chorus:

Of this stain, death has set her free. But you still live.

Orestes:

When she lived, why did you not descend and drive her out?

Chorus:

The man she killed was not of blood congenital

Orestes:

But I am then involved iwth my mother by blood-bond?

Chorus:

Murderer, yes. How else could she have nursed you beneath her heart? Do you forswear your mother's intimate blood?

(Eumenides, 566 et seq.)

FRAME 37

Orestes:

Yours to bear witness now, Apollo, and expound
the case for me, if I was right to cut her down.
I will not deny I did this thing, because I did
do it. But was the bloodshed right or not? Decide
and answer. As you answer, I shall state my case.

Apollo:

To you, established by Athene in your power,
I shall speak justly. I am a prophet, I shall not
lie. Never, for man, woman, nor city, from my throne
of prophecy have I spoken a word, except
that which Zeus, father of Olympians, might command.
This is justice. Recognize then how great its strength.
I tell you, follow our father's will. For not even
the oath that binds you is more strong than Zeus is strong.

Orestes:

This is the end for me. The noose, or else the light.

a. What does Apollo say to the jury?

b. What does Athena say about the decision of the jury?

c. Do you agree with Apollo's statement that great disaster comes in the lapse of judgement?

d. How does the jury vote?

Chorus:

Here our destruction, or our high duties confirmed.

Apollo:

Shake out the votes accurately, Athenian friends.
Be careful as you pick them up. Make no mistake.
In the lapse of judgement great disaster comes. The cast
of a single ballot has restored a house entire.

Athene:

The man before us has escaped the charge of blood.
The ballots are in equal number for each side.

(Eumenides, 609 et. seq.)

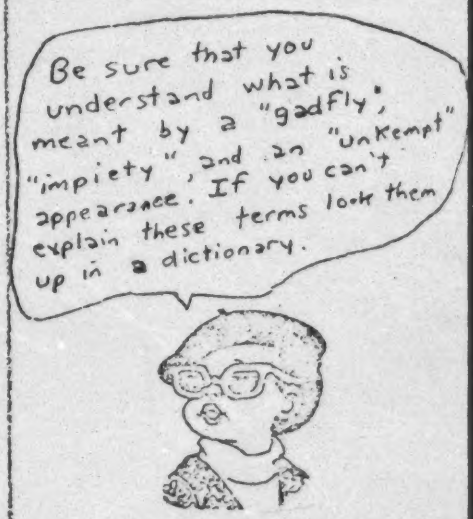
FRAME 38

As you remember, Athena casts the deciding vote for acquittal. Athena offers the Furies a place of honor in her city as the Eumenides or dispensers of benefits and good fortune.

FRAME 39

Another famous trial in the Greek tradition was the trial and death of Socrates. Socrates was a great teacher, one of the greatest in the history of the world. He saw himself as a gadfly who went about stimulating his students to think. He was known for using the so-called Socratic method, which involved repeated and pointed questioning designed to elicit the truth. Socrates had an unkempt appearance. He developed many enemies over the years who resented his excellence as a teacher.

In the spring of 399 B.C., when Socrates was 70 years old, he was accused of impiety and corrupting the youth. The chief accuser was a man named Meletus.


Be sure that you understand what is meant by a "gadfly", "impiety", and an "unkempt" appearance. If you can't explain these terms look them up in a dictionary.

FRAME 40

Socrates never wrote any books. His famous student, Plato, wrote dialogues in which Socrates is a leading figure. One famous dialogue is the Apology which is the defense Socrates made before the court, according to Plato. We will read some extracts from this very beautiful dialogue. Socrates is speaking. Questions appear in the right-hand column to help you.

FRAME 41

I speak rather because I am convinced that I never intentionally wronged anyone, although I cannot convince you--the time has been too short; if there were a law at Athens, as there is in other cities, that a capital cause should not be decided in one day, then I believe that I should have convinced you. But I cannot in a moment refute great slanders; and, as I am convinced that I never wronged another, I will assuredly not wrong myself. I will not say of myself that I deserve any evil, or propose any penalty. Why should I? Because I am afraid of the penalty of death which Meletus proposes? When I do not know whether death is a good or an evil, why should I propose a penalty which would certainly be an evil? Shall I say imprisonment? And why should I live in prison, and be the slave of the magistrates of the year--of the Eleven? Or shall the penalty be a fine, and imprisonment until the fine is paid? There is the same objection. I should have to lie in prison, for money I have none and cannot pay. And if I say exile (and this may possibly be the penalty which you will affix), I must indeed be blinded by the love of life, if I am so irrational as to expect that when you, who are my own citizens, cannot endure my discourses and words, and have found them so grievous and odious that you will have no more of them, others are likely to endure me. No indeed, men of Athens, that is not very likely. And what a life should I lead, at my age, wandering from city to city, ever changing my place of exile, and always being driven out! For I am quite sure that wherever I go, there, as here, the young men will flock to me; and if I drive them away, their elders will drive me out at their request; and if I let them come, their fathers and friends will drive me out for their sakes.

a. What does Socrates say about deciding cases in one day?

b. What does Socrates think of exile as a penalty?

c. Do you agree with him?

FRAME 42

Wherefore, O judges, be of good cheer about death, and know of a certainty, that no evil can happen to a good man, either in life or after death. He and his are not neglected by the gods; nor has my own approaching end happened by mere chance. But I see clearly that the time had arrived when it was better for me to die and be released from trouble; wherefore the oracle gave no sign. For which reason, also, I am not angry with my condemners, or with my accusers; they have done me no harm, although they did not mean to do me any good; and for this I may gently blame them. Still I have a favour to ask of them. When my sons are grown up, I would ask you, O my friends, to punish them; and I would have you trouble them, as I have troubled you, if they seem to care about riches, or anything, more than about virtue; or if they pretend to be something when theyare really nothing--then reprove them, as I have reproved you, for not caring about that

a. What does Socrates think about death?

b. What request does Socrates make about his sons?

c. Why did Socrates think the death penalty was particularly foolish?

for which they ought to care and thinking that they are something when they are really nothing. And if you do this, both I and my sons will have received justice at your hands.

The hour of departure has arrived, and we go our ways--I to die, and you to live. Which is better, God only knows.

FRAME 43

The high moral character and genuine religious faith of Socrates are made abundantly clear throughout this whole discourse. It would seem almost incredible that the Athenian court voted for his condemnation. His condemnation is explained by the general hostility produced by or resulting from his causing people to examine and question things. He was sentenced to death and died by drinking hemlock.

One of Socrates most famous remarks was that "the unexamined life is not worth living." At no extra charge we are giving you this remark in the original Greek followed by a transliteration into Roman letters. Try to pronounce the transliteration. Then compare the transliteration with the original.

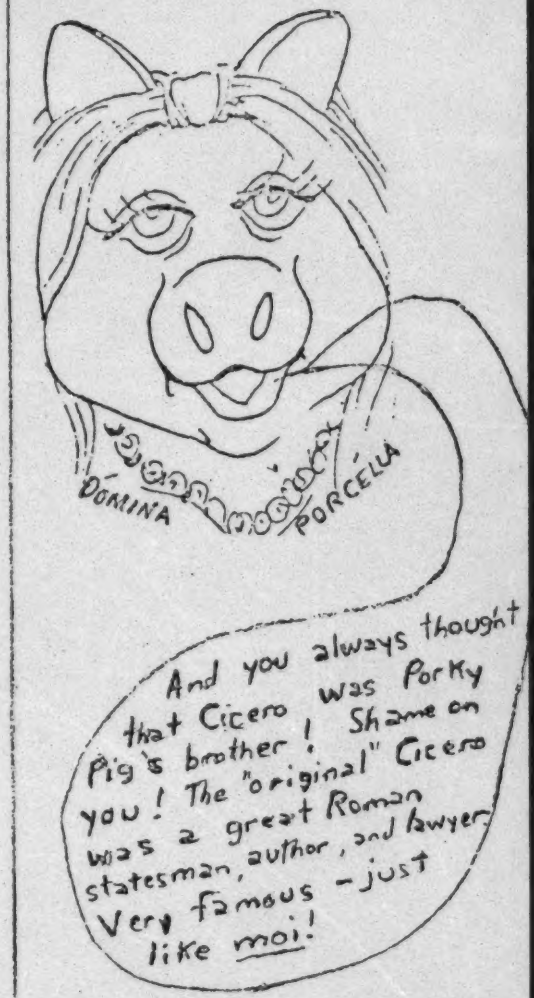
Ὁ ἀνεξέταστος βίος οὐ βιωτὸς ἀνθρώπῳ.

ho anexétastos bios ou biotòs anthrópo.

FRAME 44

CICERO WAS A FAMOUS LAWYER OF THE LATE ROMAN REPUBLIC. HE WAS ALSO A GREAT POLITICAL FIGURE AND AUTHOR. MANY OF HIS SPEECHES WERE WRITTEN TO DEFEND CLIENTS IN COURT.

ONCE, FOR EXAMPLE, CICERO HAD TO DEFEND A GANG LEADER AND HOOLIGAN NAMED MILO, WHO WAS ACCUSED OF MURDERING ANOTHER GANG LEADER AND HOOLIGAN NAMED CLODIUS, OF THE GREAT AND NOBLE CLAUDIAN FAMILY.


DOMINA
PORCELLA
And you always thought that Cicero was Porky Pig's brother! Shame on you! The "original" Cicero was a great Roman statesman, author, and lawyer. Very famous - just like moi!

FRAME 45

CICERO'S SPEECH IN MILO'S DEFENSE IS A MODEL OF SPECIAL PLEADING. IN FACT, MODERN LAWYERS STILL STUDY IT. IT APPEALS TO EMOTION AND POLITICAL RANCOUR. IT ENDEAVORS TO PUT MILO'S CONDUCT IN FAVOURABLE CONTRAST TO THAT OF CLODIUS, BY ASTUTE SUGGESTION AND SUPPRESSION. WE WILL ONLY HAVE TIME HERE TO READ BRIEF EXTRACTS FROM THE SPEECH. READ THE ENGLISH TRANSLATION FIRST IN THE LEFT-HAND COLUMN. THEN READ THE ORIGINAL LATIN IN THE RIGHT-HAND COLUMN. THE LATIN WILL GIVE YOU SOME OF THE SENSE OF CICERO'S GRAND STYLE.

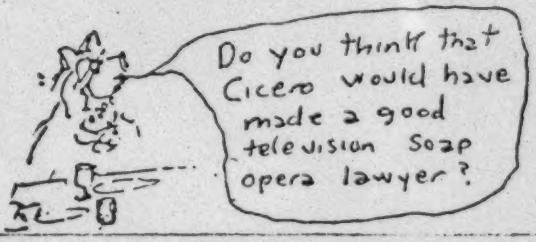
XXXIV. But I have now said enough about the case itself; about what lies outside it perhaps too much. What is left, save that I should beg and implore you, gentlemen, to extend to this brave man that mercy which he himself does not beg, but which I, in spite of his protests, both beg and demand. Do not, if amid the tears of us all you have beheld not a single tear of Milo's, if you see him with unchanging countenance and with accents and tones steady and unfaltering—do not for this reason turn away your pity. Nay, I am not sure that he does not need your succour far the more. For if in gladiatorial combats, where the fate of the lowest class of mankind is concerned, it is natural in us even to dislike the quaking suppliant who craves permission to live, while we are anxious to save the courageous and spirited who hotly fling themselves on death, and pity more those who look not for our pity than those who importune us for it, how much the rather should we do this when it is for gallant citizens we do it?

XXXIV. Sed iam satis multa de causa, extra causam etiam nimis fortasse multa. Quid restat nisi ut orem obtesterque vos, iudices, ut eam misericordiam tribuatis fortissimo viro, quam ipse non implorat, ego etiam repugnante hoc et imploro et exposco? Nolite, si in nostro omnium fletu nullam lacrimam aspexistis Milonis, si voltum semper eundem, si vocem, si orationem stabilem ac non mutatam vidistis, hoc minus ei parcere: haud scio an multo sit etiam adiuvandus magis: etenim si in gladiatoriis pugnis et infimi generis hominum condicione atque fortuna timidos atque supplices et ut vivere liceat obsecrantis etiam odisse solemus, fortis atque animosos et se acriter ipsos morti offerentis servare cupimus, eorumque nos magis miseret, qui nostram misericordiam non requirunt, quam qui illam efflagitant, quanto hoc magis in fortissimis civibus facere debemus?

FRAME 46

For myself, gentlemen, all life and spirit is taken out of me by those words of Milo which ring ever in my ears and amid which I daily move: "Farewell!" he cries, "farewell, my fellow-citizens! Security—success—prosperity be theirs! Long may this city, my beloved fatherland, remain glorious, however ill she may have treated me! May my countrymen rest in full and peaceful enjoyment of their constitution, an enjoyment from which, since I may not share it, I shall stand aloof, but which none the less is owed to myself! I shall pass and go hence. If it shall not be mine to live under good government, at least I shall be saved from bad, and in the first well-ordered and free community where I shall set foot, there I shall find repose. Alas! that I must see my labours wasted, my hopes disappointed, my dreams unrealized! When the constitution lay in the dust, and I, as tribune of the plebs, had put myself at the disposal of the Senate, whom I had found annihilated, of the Roman knights, whose power was weakened, of all you as a second father? What to you, Quintus my brother, who now are far away, but who shared with me my hours of bitterness? Shall I say that I was unable to protect Milo's welfare by the aid of the same men who had enabled *him* to protect my own? Unable in what a cause? A cause that all nations approved. Unable to protect him from whom? From those who found the most relief by the death of Publius Clodius. And who was the intercessor? Myself. Why, what wicked thought did I entertain, what enormity did I commit, gentlemen, when I tracked down, laid bare, dragged into the light of day, and stamped out the symptoms of a universal calamity? That is the head and fount of all the sorrows that have overwhelmed my friends and myself. Why did you desire my restoration? Was it that I might stand by and watch the banishment of those by whom I was restored? Do not, I implore you, suffer my return to be made yet bitterer than my departure; for how can I count myself restored, if I am to be torn from those to whom my restoration was due?

Me quidem, iudices, exanimant et interimunt hae voces Milonis, quas audio adsidue et quibus intersum cotidie: "Valeant," inquit, "valeant cives mei; sint incolumes, sint florentes, sint beati; stet haec urbs praeclara mihique patria carissima, quoquo modo erit merita de me; tranquilla re publica mei cives, quoniam mihi cum illis non licet, sine me ipsi, sed propter me tamen perfruantur; ego cedam atque abibo: si mihi bona re publica frui non licuerit, at carebo mala, et quam primum tetigero bene moratam et liberam civitatem, in ea conquiescam. O frustra" inquit "mihi suscepti labores! O spes fallaces et cogitationes inanes meae! Ego cum tribunus plebis re publica oppressa me senatui dedissem, quem exstinctum acceperam, equitibus Romanis, quorum vires erant debiles, bonis viris, qui omnem parentem alterum putant? Quid tibi, Quinte frater, qui nunc abes, consorti mecum temporum illorum? Mene non potuisse Milonis salutem tueri per eosdem, per quos nostram ille servasset? At in qua causa non potuisse? Quae est grata gentibus omnibus. A quibus non potuisse? Ab eis, qui maxime P. Clodii morte acquierunt. Quo deprecante? Me. Quodnam ego concepi tantum scelus aut quod in me tantum facinus admisi, iudices, cum illa inlicia communis exitii indagavi, patefeci, protuli, exstinxi? Omnes in me mecumque redundant ex fonte illo dolores. Quid me reducem esse voluistis? An ut inspectante me expellerentur ei, per quos essem restitutus? Nolite, obsecro vos, acerbiorem mihi pati reditum esse, quam fuerit ille ipse discessus: nam qui possum putare me restitutum esse, si distraher ab his, per quos restitutus sum?



FRAME 47

XXXVIII. Would that the immortal gods had brought it about—forgive the wish, O my country! —for I fear lest expressions that are dutiful to Milo's cause may be treasonable to thee—would that Publius Clodius not merely lived, but were praetor, consul, ay, dictator, rather than that I should live to see that sight! O ye immortal gods, a brave man indeed, and one whose life, gentlemen, you may well preserve! "Nay, nay!" he cries, "'tis well that he has paid a penalty that he deserves; let me, if fate so ordains, submit to one that I deserve not!" Shall this man, born for his country, die anywhere save in that country, or, it may be, in that country's cause? Will you retain the memorials of his heroism, and will you suffer no sepulchre for his body in all Italy? Shall any man by his free vote banish from this city one whom, when banished by you, all cities will welcome to themselves? O happy land, that shall give a haven to this hero! Ungrateful this, if it shall cast him forth! Unhappy, if it shall lose him!

But no more. Indeed I can no longer speak for tears, and my client forbids that tears should plead his cause. I implore and beseech you, gentlemen, have the courage of your convictions in recording your votes. Your courage, justice, and honour will, believe me, meet with high approval from him who, in his choice of the jury, has fixed upon the best, the wisest, and the most brave.

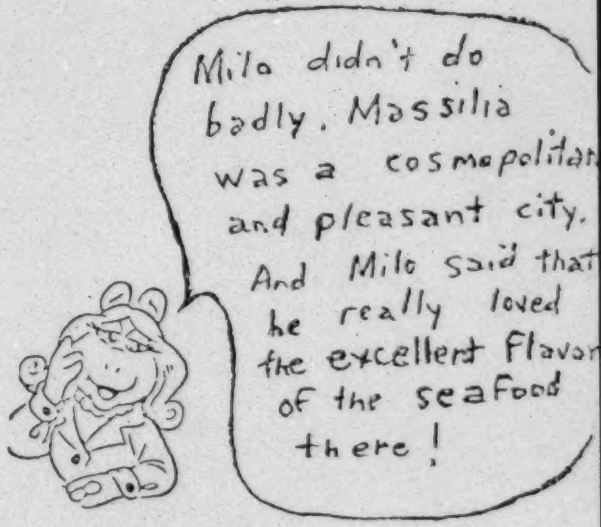
XXXVIII. Útinam di immortáles fecíssent—pace tua, pátria, díxerim: métuo enim ne scelerate dicam in te quod pro Milóne dicam pie—útinam P. Clódius non modo víveret, sed étiam praetor, consul, dictátor esset pótius quam hoc spectaculum viderem! O di immortáles! Fortem et a vobis, iudices, conservándum virum! "Minime, minime"; inquit "immo vero poenas ille débitas lúerit: nos subeámus, si ita necésse est, non débitas." Hícine vir pátriae natus usquam nisi in pátria moriétur, aut, si forte, pro pátria? Huius vos ánimi monuménta retinébitis, córporis in Italia nullum sepúlcrum esse patiémini? Hunc sua quisquam sententia ex hac urbe expéllet, quem omnes urbes expúlsum a vobis ad se vocábunt? O terram illam beátam, quae hunc virum exceperit, hanc ingrátam, si ciécerit, míseram, si amíserit!

Sed finis sit; neque enim prae lácrimis iam loqui possum, et hic se lácrimis defendi vetat. Vos oro obtéstorque, iudices, ut in sententiis ferendis, quod sentiétis, id audeátis. Vestram virtútem, iustítiam, fidem, mihi crédite, is máxime probábit, qui in iudiciibus legéndis óptimum et sapientíssimum et fortíssimum quemque elégit.

FRAME 48

THUS ENDS CICERO'S SPEECH ON BEHALF OF MILO (CALLED IN LATIN ORATIO PRO MILONE).

DESPITE CICERO'S ELOQUENCE, THE JURY CONDEMNED MILO, WHO THEN WENT INTO EXILE AT MASSILIA (THE MODERN MARSEILLES IN FRANCE).


Milo didn't do badly. Massilia was a cosmopolitan and pleasant city. And Milo said that he really loved the excellent flavor of the seafood there!

FRAME 49

THR ORATIONS OF CICERO AGAINST CATILINE ARE AMONG THE MOST FAMOUS LEGAL ORATIONS THAT CICERO WROTE. CATILINE WAS A MEMBER OF THE ROMAN SENATE AND APPARENTLY THE LEADER OF A CONSPIRACY AGAINST THE REPUBLIC. AT A MEETING OF THE SENATE, CICERO CONDEMNED CATILINE IN THE STRONGEST POSSIBLE TERMS WHILE CATILINE WAS PRESENT. IN SOME WAYS, THE CATILINARIAN CONSPIRACY RESEMBLED THE WATERGATE CONSPIRACY. IN THE CASE OF THE CATILINARIAN CONSPIRACY, MOST OF THE EVIDENCE IS FROM CICERO'S POINT OF VIEW. WE CAN'T GO INTO THE DETAILS OF THE CONSPIRACY HERE, BUT YOU MIGHT WANT TO DO SO ON YOUR OWN. THE CONSPIRACY IS A FASCINATING TOPIC.

If you would like to learn more about Cicero and Catiline consult an encyclopaedia or a biography of Cicero or book on the history of the Roman Republic.
An important thing to remember about Catiline is that he did not get "a fair shake." He was not allowed to defend himself. His was a classic case of laws protecting rights being meaningless. Laws can be just words if not carried out.

FRAME 50

A FEW LINES FROM CICERO'S FIRST SPEECH AGAINST CATILINE ARE VERY FAMOUS. STUDENTS OF LATIN OFTEN MEMORIZE THEM. READ THEM FIRST IN ENGLISH AND THEN IN THE RIGHT-HAND COLUMN IN LATIN. IF YOU FEEL

AMBITIOUS, TRY TO DECLAIM AND MEMORIZE THE LATIN.

"How far I ask you, Catiline, will you abuse our patience? How long will this madness of yours make sport of us? To what end will this unbridled boldness make itself conspicuous?....Oh what times! Oh what a situation."

Quo usque tandem abutére
Catilína patiéntia nostra?
Quam diu étiam furor iste
tuus nos elúdet?
Quem ad finem sese
effrenáta jactábit audácia?
...O témpora! O mores!

FRAME 51

BEFORE LEAVING CICERO, WE SHOULD LOOK BRIEFLY AT HIS GENERAL ATTITUDE TOWARD THE LAW, SINCE IT EMBODIES THE ROMAN ATTITUDE AT ITS BEST.

CICERO SAYS, IN EFFECT, THAT THE TRUE LAWYER, WHILE ALWAYS STRIVING TO BE IN COMMAND OF ALL THE LEARNING OF THE LAW, STRIVES ALWAYS TO MAKE THE LAW FIT THE NEEDS OF JUSTICE AND ETHICS. HE COMPLIMENTS A DECEASED LAWYER FRIEND (SULPICIUS IN THE 9th PHILIPPIC) AS BEING "NOT LESS A MASTER OF THE LAW THAN OF JUSTICE" -- NON MINUS JURIS CONSÚLTUS QUAM JUSTÍTIAE.

a. DO YOU THINK THAT MODERN LAWYERS TRY TO LIVE UP TO THE IDEAL THAT CICERO EXPRESSES?

b. DO YOU AGREE THAT A LAWYER SHOULD BE NON MINUS JURIS CONSÚLTUS QUAM JUSTÍTIAE?
WHY, OR WHY NOT?

FRAME 52

ANOTHER GENIAL AND KINDLY AUTHOR WHO PRACTICED LAW IN ANCIENT ROME (IN THE 1st CENTURY A.D., AFTER CICERO'S TIME) WAS PLINY THE YOUNGER. INEXPERIENCED LAWYERS IN HIS DAY WERE TRAINED IN THE SO-CALLED CENTUMVIRAL OR "HUNDRED MEN" COURT.

READ PLINY'S DESCRIPTION OF THE HUNDRED MEN COURT:

The business there (he says) is more fatiguing than pleasant. The cases are mostly trifling and inconsiderable. Rarely is there one worth speaking in either from the importance of the question or from the rank of the parties. There are few advocates there I take any pleasure in working with. The rest, a lot of imprudent young fellows, many of whom we know nothing about, come here to gain practice in speaking and conduct themselves with such forwardness and such an utter want of deference, that my friend Attilius put it exactly when he said, "Boys set out at the bar with cases in the Hundred Court, just as they do at school with Homer," meaning that they begin with what they ought to end. But in former times, so my elders tell me, no youth even of the best families was allowed in court unless introduced by some person of consular dignity. As things are now, all distinctions are leveled and the present young generation, instead of waiting to be introduced, break in of their own accord. The audience at their heels is worthy of such orators. It is a low rabble of hired mercenaries supplied by contract. They get together in the middle of the court, where the dole is dealt out openly to them. This dirty business increases every day. Only yesterday, two of my household were paid fifty cents apiece to cheer somebody or other. This is what the higher eloquence goes for. The leader of the gang stands up and signals for applause; most of the thick-headed fellows know nothing about what is said and must have a signal. If you hear cheering in the court, you know that the one who gets the most applause deserves it the least. Licinius began this by asking his friends to come and hear him. My tutor Quintilian told me that the great lawyer Domitius Afer was once speaking in his usual slow and impressive way, when he heard near him in another court a great applauding. He stopped until the noise ceased. He began again and was interrupted a second and a third time. He asked them, "Who is speaking?" "Licinius," he was told, upon which he broke off his speech, saying, "Eloquence is no more." But then it had simply begun to decline; now it is almost extinct. I stay in the court because of my years and the interests of my friends, as I fear they would think I stayed out to avoid work, rather than these indecencies, but I am effecting a gradual retreat.

(Epistulae 2.14)

a. ACCORDING TO PLINY, WHY DO MANY YOUNG LAWYERS COME TO THE COURT?

b. WHAT ARE SOME OF THE PROBLEMS WITH THIS COURT?

c. WHY DOES PLINY STAY WITH THE COURT?

d. DOES "SHOWMANSHIP" COUNT IN MODERN COURTS?

FRAME 53

THE GREAT CODIFIER OF ROMAN LAW WAS THE EMPEROR JUSTINIAN. THE CODEX JUSTINIANI OR CODE OF JUSTINIAN IS A LONG AND TECHNICAL DOCUMENT. THE OPENING PORTION OF THE CODE GIVES SOME IDEA OF THE "FLAVOR" OF THE WHOLE. READ THE ENGLISH FIRST, AND THEN THE LATIN:

THE EMPEROR FLAVIUS JUSTINIAN CAESAR, CONQUEROR OF THE ALAMANNI, THE GOTHS, AND THE FRANKS, THE FOREMOST CONQUEROR OF THE GERMANS, THE ALANI, AND THE AFRICAN VANDALS, A RENOWNED, DEVOTED, AND JOYFUL VICTOR, AND CELEBRATOR OF TRIUMPHAL PARADES, WITH THE LIFETIME TITLE OF AUGUSTUS, PRESENTS THIS DOCUMENT TO OUR YOUNG CITIZENS WHO DESIRE TO HAVE A CODIFICATION OF LAWS.

It is necessary that imperial majesty be decorated not only with arms, but also armed with laws, so that both in war and peace the nation can be rightly governed and so that the Roman Emperor may be a conqueror not only in battles with the enemy, but even through legal channels while expelling the wickedness of false accusers. Let him also become a most vigorous advocate of the law, as he is a most vigorous conqueror in vanquishing the enemy.

IMPERÁTOR CAESAR FLÁVIUS JUSTINIÁNUS ALAMÁNNICUS GÓTHICUS FRANCÍSCUS GERMÁNICUS ÁNTICUS ALANÍCUS VANDALÍCUS AFRICÁNUS PIUS FELIX ÍNCLITUS VICTOR AC TRIUMPHÁTOR SEMPER AUGÚSTUS CÚPIDAE LEGUM JUVENTÚTI.

Imperatóriam maiestátem non solum armis decorátam, sed étiam légibus opórtet esse arnátam, ut utrúmque tempus et bellórum et pacis recte possit gubernári et princeps Románus victor exístat non solum in hostílibus próeliis, sed étiam per legítimos trámites calumniántium iniquitátes expéllens, et fiat tam juris religiosíssimus quam victis hóstibus triumphátor.

a. Why do you think Justinian lists his various titles at the beginning of the Codex?

b. Why does Justinian think that "imperial majesty" must have laws as well as weapons?

FRAME 54

MANY LEGAL DOCUMENTS HAVE BEEN WRITTEN IN LATIN THROUGH THE AGES. ONE OF THE MOST FAMOUS IS THE MAGNA CHARTA OR GREAT CHARTER. THIS DOCUMENT WAS ONE OF THE EARLIEST IN HISTORY TO RECOGNIZE THE RIGHTS OF THE COMMON MAN. IT WAS GIVEN BY KING JOHN OF ENGLAND TO THE BARONS AT RUNNYMEDE IN 1215. HERE ARE SOME BRIEF EXTRACTS FROM THIS DOCUMENT TO HELP GIVE YOU ITS "FLAVOR." READ THE ENGLISH FIRST AND THEN THE LATIN:

" Let no free person be taken into captivity or imprisoned. We shall not pass sentence on people except through the legal judgement of their peers or through the law of the land. We shall not sell to anyone or deny to anyone or postpone for anyone right or justice. Let all merchants have safe and secure exit from England and through England as much on land as on the water for buying and selling... Therefore we wish and firmly command that people in our kingdom have and hold all liberties, rights, and concessions well and in peace, freely and quietly, fully and wholly, for themselves and their heirs... in every matter and place forever...It has been sworn, however, by us and the barons that all their provisions will be preserved in good faith and without evil intent. Given by our hand in the meadow which is called Runnymede... on the 15th day of June and in the 17th year of our reign."

Nullus liber homo capiátur, vel imprisonétur ...nec super eum mittémus nisi per legále judícium párium suórum vel per legem terrae. Nulli vendémus, nulli negábimus, aut différimus rectum aut justítiam. Omnes mercatóres hábeant salvum et securum exíre ab Ánglia, et veníre in Ángliam, morári et ire per Ángliam, tam per terram quam per aquam, ad eméndum et vendéndum...Quare volúmus et fírmiter praecípimus...quod hómines in regno nostro hábeant et téneant omnes... libertátes, jura et concéssiones, bene et in pace, líbere et quiéte, plene et íntegre, sibi et haerédibus suis... in ómnibus rebus et locis, in perpétuum... Jurátum est autem, tam ex parte nostra, quam ex parte barónum, quod haec ómnia...bona fide et sine malo ingénio servabúntur... Data per manum nostram in prato quod vocátur Runniméde...quinto décimo die Júnii, anno regni nostri séptimo décimo.

a. Notice that King John refers to himself in the plural, as is customary for monarchs. Does the plural lend weight or force to the document?

b. What rights do merchants have under the Magna Charta?

FRAME 55

A FAMOUS PASSAGE ABOUT LAW IS FOUND IN A GREAT BOOK BY THE 13th CENTURY PHILOSOPHER, THOMAS AQUINAS, CALLED SUMMA THEOLÓGICA. IN THE SUMMA, THOMAS AQUINAS GIVES HIS FAMOUS DEFINITION OF LAW. HE SAYS: "LAW IS A CERTAIN ORDINANCE OF REASON FOR THE COMMON GOOD PROMULGATED BY HIM WHO HAS CARE OF THE COMMUNITY." --LEX EST QUAEDAM ORDINÁTIO RATIÓNIS AD BONUM COMMÚNEM AB EO QUI CURAM COMMUNITÁTIS HABET PROMULGÁTA.

IN OTHER WORDS, LAW HAS FOUR CHARACTERISTICS:

1. It is an ordinance of reason, i.e., a reasonable rule.	quaedam ordinátio rationis
2. It has fostering of the common good as its purpose.	ad bonum commúnem
3. It must be promulgated, i.e., publicized.	promulgáta
4. It comes from the person who has care of the community, i.e., the government.	ab eo qui curam communitátis habet

TRY TO LIST THE 4 CHARACTERISTICS OF LAW ACCORDING TO AQUINAS.

① It is an ordinance of reason ② for the common good ③ promulgated ④ by the person who has care of the community
Or if you prefer the Latin (like moi) law is ① quaedam ordinátio rationis ② ad bonum commúnem ③ prómulgata ④ ab eo qui curam communitatis habet

FRAME 56

THE FOLLOWING EXTRACT IS TAKEN FROM THOMAS AQUINAS. IT WILL GIVE YOU SOME NOTION ABOUT HOW THOMAS AQUINAS HANDLES QUESTIONS AND TOPICS:

NOTE HOW AQUINAS ARGUES. HE RAISES OBJECTIONS AND LATER REPLIES TO THEM. HE MARTIALS HIS ARGUMENTS LOGICALLY. HE IS FAMILIAR WITH WHAT OTHERS HAVE SAID ABOUT THE TOPIC.

Question 90: Fourth Article

Whether Promulgation is Essential to Law?

We proceed thus to the fourth Article:--

Objection 1. It would seem that promulgation is not essential to law. For the natural law, above all, has the character of law. But the natural law needs no promulgation. Therefore, it is not essential to law that it be promulgated.

Objection 2. Further, it belongs properly to law to bind one to do or not to do something. But the obligation of fulfilling a law touches not only those in whose presence it is promulgated, but also others. Therefore, promulgation is not essential to law.

Objection 3. Further, the binding force of law extends even to the future, since laws are binding in matters of the future, as the jurists say. But promulgation concerns those who are present. Therefore, it is not essential to law.

On the contrary, it is laid down in the Decretals that laws are established when they are promulgated.

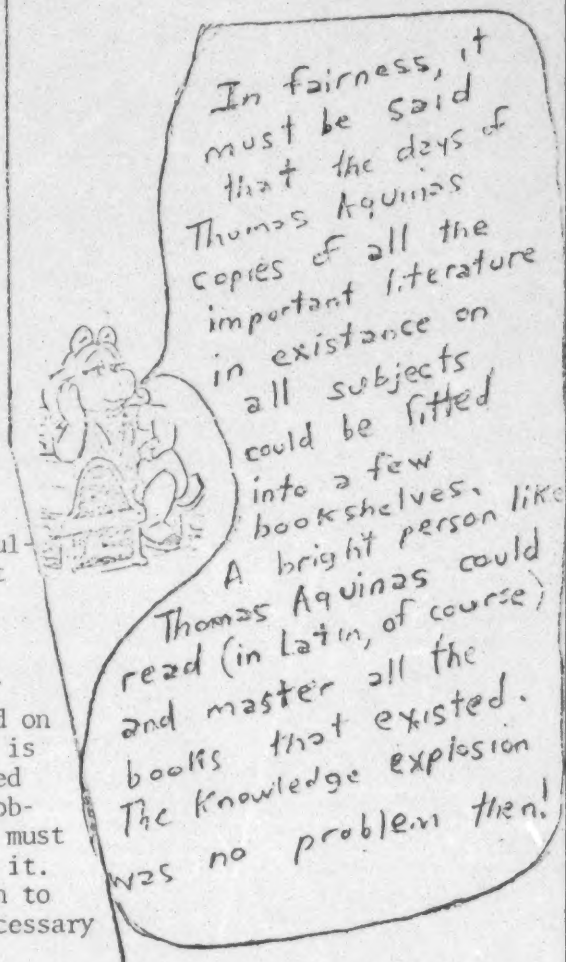
I answer that, as was stated above, a law is imposed on others as a rule and measure. Now a rule or measure is imposed by being applied to those who are to be ruled and measured by it. Therefore, in order that a law obtain the binding force which is proper to a law, it must needs be applied to the men who have to be ruled by it. But such application is made by its being made known to them by promulgation. Therefore, promulgation is necessary for law to obtain its force.

Thus, from the four preceding articles, the definition of law may be gathered. Law is nothing else than an ordinance of reason for the common good, promulgated by him who has the care of the community.

Reply Obj. 1. The natural law is promulgated by the very fact that God instilled it into man's mind so as to be known to him naturally.

Reply Obj. 2 Those who are not present when a law is promulgated are bound to observe the law, in so far as it is made known or can be made known to them by others, after it has been promulgated.

Reply Obj.3. The promulgation that takes place in the present extends to future time by reason of the durability of written characters, by which means it is continually promulgated. Hence Isadore says that lex (law) is derived from légere (to read) because it is written.


In fairness, it must be said that the days of Thomas Aquinas copies of all the important literature in existance on all subjects could be fitted into a few bookshelves. A bright person like Thomas Aquinas could read (in Latin, of course) and master all the books that existed. The knowledge explosion was no problem then!

FRAME 57

WE WILL END THIS BRIEF SURVEY OF GREEK AND LATIN LITERATURE AND THE LAW WITH SOME QUESTIONS FROM PROMINENT AMERICAN LAWYERS ON THE VALUE OF CLASSICAL LANGUAGE BACKGROUND TO A LAWYER.

"A lawyer must needs study uninteresting old statutes, dry and ancient blue books, stupid, antiquated ordinances, early black-letter precedents, to find out what the law is and what his client's rights are. Unless he can study alertly, patiently, and discriminately, all these uninteresting, hard, and dry sources of the law and bases of rights, he will never reach the higher walk of his profession. Many men have natural aptitude for this. Many men have such superior ambition and industry that they will learn how to do this work when the necessity for it overtakes them. Of them we do not speak. But for the average youth who aims to become a lawyer, there is great need that he be given special training in the interpretation of documents which are uninteresting, hard, and dry. He will have no end of it to do in his profession. He should conquer this preliminary difficulty before he enters upon his work. And while hard work for hard work's sake is a solecism, hard work in something worthwhile, for the strength and skill to be gained thereby, is the essence of all disciplinary education. And this applies to the study of the classics by the would-be lawyer." Meritt Starr, of the Chicago Bar

"In my opinion, everyone entering upon the profession of law should be a proficient Latin scholar." John J. Healy, Former State's Attorney for Cook County, Illinois.

"Hábeas corpus, nolo conténdere, non compos mentis, amícus cúriae, de facto --- Doesn't anyone speak English here?"

LESSON 12

Objectives

To introduce orally and then in written form the following legal Latin expressions used in English, including some terms from international law:

LATIN EXPRESSION	LITERAL MEANING	SPECIAL MEANING, IF ANY
mandámus	we command	a writ issued by a superior court ordering that something be done
certiorári	to be informed	a writ from a higher court to a lower court requesting a transcript of proceedings in a case for review
(defúnctus) sina prole	(dead) without issue	(a deceased person) with no children or descendants
nunc pro tunc	now for then	to have effect as of an earlier date when it ought to have been made, done, or recorded
ad valórem	according to the value	in proportion to the value
affidávit	he has pledged	a sworn statement
a prióri	from the previous causes or hypotheses	proceeding from cause to effect, deductive, based on hypothesis or theory, not supported by factual study
a posterióri	from the subsequent	reasoning from facts to general principles or from effects to causes
pendénte lite	while the litigation is in progress	
lis pendens	a suit in progress	
ad hóminem	to the man	argument directed at one's prejudices, rather than one's intellect
casus belli	occasion of war	an act or event that justifies a declaration of war
mare clausum	a closed sea	a sea that is under the jurisdiction of one nation only
mare líberum	a free sea	a sea that is open to the navigation of all nations
ab ínitio	from the beginning	

LATIN EXPRESSION	LITERAL MEANING	SPECIAL MEANING, IF ANY
status quo ante bellum	the situation as it was before the war	
sui juris	of his or her own right	of full legal capacity
sui géneris	of its own kind	unique

Activities

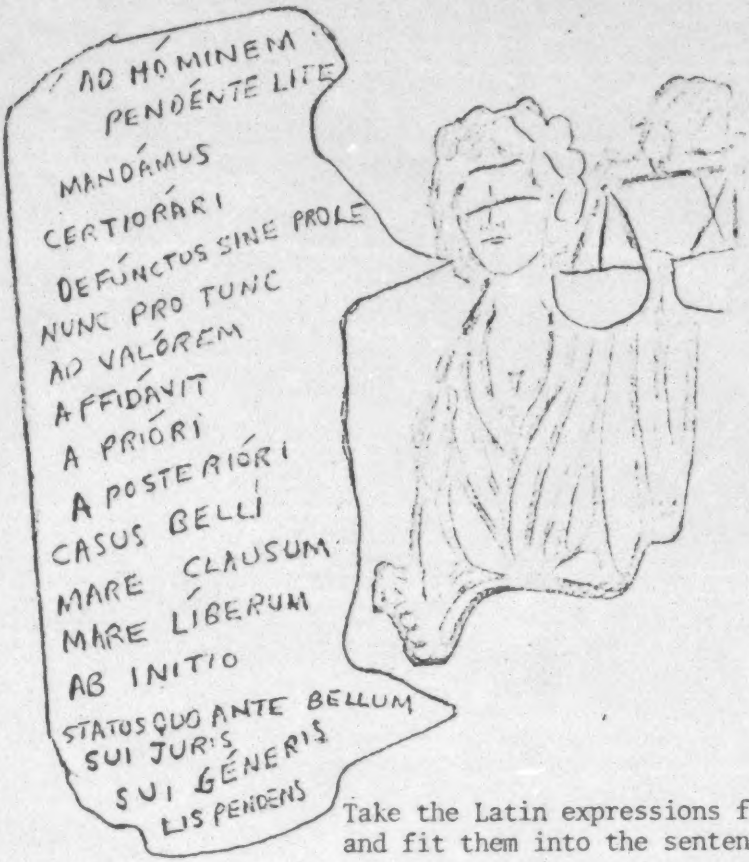
1. Approach the chart given in the Objectives in the usual fashion orally. In connection with the term certiorári, you might note the common anglicized pronunciation sershoraree. You might note that the terms casus belli, mare clausum, mare líberum and status quo ante bellum are used in international law in treaties and agreements between and among nations.

2. Ask the pupils to indicate whether each of the following statements is true or false:
   a. A sales tax of 5% of the price of an item is an ad valórem tax. (T)
   b. A court could issue a writ of mandámus requiring a school system to desegregate its schools. (T)
   c. A certiorári is issued when there is need for a higher court to review the work of a lower court. (T)
   d. A deceased person without children might be described in a will as defúnctus sine prole. (T)
   e. Witnesses are asked to sign an affidávit. (T)
   f. A tax cut to take effect in January of the preceding year would be approved nunc pro tunc. (T)
   g. Attorneys are reluctant to discuss the specifics of a case pendénte lite. (T)
   h. A priori argumentation goes from the general theory or hypothesis to the specifics of a case. For example: John is a very good citizen; therefore, he would never commit burglary. (T)
   i. A posteriori argumentation goes from the specific facts to general principles. For example: John was arrested for burglary on February 2, March 1, and April 15; therefore, he is a crook. (T)
   j. Ad hóminem arguments are directed at the prejudices of people rather than to the merits of the issue itself. (T)
   k. The casus belli clause of a peace treaty lists the occasions or events that justify the declaration of war. (T)
   l. The Atlantic Ocean is a mare líberum. (T)
   m. The Pacific Ocean is a mare clausum. (F)
   n. Washington, D.C. has not been the capital of the United States ab inítio. (T)
   o. When the Korean War finally ended, the status quo ante bellum was almost restored. (T)
   p. In order to vote in an election, a person must be sui juris. (T)
   q. A case that is unique could be called sui géneris. (T)

r. Before buying a house, it is important to check at the Recorder of Deeds to see whether anyone has a lis pendens against the property. (T)

3. After pupils have mastered the expressions aurally and orally, have them practice reading and writing through the following word game.

WORDGAME F



JUSTITIA OR JUSTICE OR LADY JUSTICE IS THE ROMAN GODDESS ASSOCIATED WITH THE LAW. SHE IS BLIND AND FREQUENTLY CARRIES SCALES (LIBRA IN LATIN). SHE REPRESENTS LAW AND IS THE SYMBOL OF THE DEPARTMENT OF JUSTICE IN THE UNITED STATES. (THE JUSTICE DEPARTMENT APPROPRIATELY HAS FOR ITS MOTTO THE LATIN PHRASE QUI PRO DOMINA JUSTITIA SEQUITUR--"WHICH PROSECUTES ON BEHALF OF LADY JUSTICE.")

Take the Latin expressions from the lips of Lady Justice and fit them into the sentences below:

1. _____ _____ arguments, which appeal to people's prejudices rather than to cool reason are among the weakest kind of arguments.

2. An injunction is a court order prohibiting something; a _ _____, on the other hand, is a court order commanding that some thing be done.

3. The judge told the jury not to discuss the case _____ _____.

4. The following is an example of ____ _____ logic: All cats are animals. Claudius is a cat. Therefore, Claudius is an animal.

5. The following is an example of _____ _____ logic: Claudius the cat is an animal. Octavia the cat is an animal. Bad News Jimmy the cat is an animal. Whiskers the cat is an animal. Therefore, all cats are animals.

6. When a case is appealed to the Supreme Court, the Supreme Court will issue a writ of _____ in order to be informed of what the proceedings were in a lower court.

7. Howard Hughes, the deceased millionaire with no children would be described in legal terms as ___ _____ _____.

8. A suit against a property at a time when the property was being sold would be known as a _____ _____.

9. When the Internal Revenue Service orders people to pay for previous years that did not originally seem due, it does so _____ _____ _____.

10. Police will ask a witness of a mugging to sign an _____.

11. A tax on restaurant bills that varied with the size of the bill is an ___ _____ tax.

12. An heir is often required to be ___ _____ in order to use inherited money.

13. When the state of Israel restored the Sinai to Egyptian control, it restored, in effect, the _____ _____ _____ _____.

14. The Caspian Sea in the Soviet Union is a clear-cut example of a _____ _____, since it is totally surrounded by Soviet territory.

15. A case which was unique and which involved a new point of law rather than precedents would be called _____ _____.

16. The Mediterranean Sea is open to the traffic of all nations and is an example in international law of a _____ _____.

17. India has been a democracy since it first became an independent country in 1947; therefore it has been a democracy ___ _____.

18. The Argentine invasion of the Falkland Islands was really a _____ _____.

LESSON 13

Objectives

1. To introduce (or review) orally and then in written form the following legal Latin expressions used in English in connection with divorces, trusts, and estates.

LATIN EXPRESSION	LITERAL MEANING	SPECIAL MEANING, IF ANY
a mensa et thoro	from table and couch	a type of divorce which terminates the obligation and right of co-habitation, but leaves the marriage intact otherwise; this type of divorce is also called a legal separation
a vínculo matrimónii	from the bond of marriage	a type of divorce which dissolves the marriage
inter vivos	among the living	a type of trust created during the lifetime of the trustor.
per cápita	by heads, individually	
per stirpes	by the stalk or stem	

LATIN EXPRESSION	LITERAL MEANING	SPECIAL MEANING, IF ANY
administrátor cum testaménto annéxo (c.t.a.)	an administrator with the connected will	someone appointed by the Registrar of Wills to administer the terms of a will when the will mentions no executor
in terrórem	to the frightening, to the terror, for the purpose of frightening	a clause in a will invalidating a bequest if the beneficiary thereof challenges any provision of the will
corpus	body	the capital of a fund or trust as distinguished from the income
sui juris	of his (her) own right	of full legal capacity
ultra vires	beyond powers	beyond the scope of one's authority
in extrémis	in the last moments, at the point of death	
(defúnctus) sine prole	(dead) without issue	(a deceased person) with no children or descendants
stare decísis (et non quiéta movére)	to stand on what has been decided and not to stir up what is at rest	when a point is settled by a decision, it forms a precedent which is not afterwards to be departed from

2. To introduce orally (and then in written form) the following legal expressions relating to divorce and wills in terms of their Latin etymologies.

ENGLISH EXPRESSION	LATIN ROOT	MEANING OF EXPRESSION
nuncupative will	nuncupáre - "to call, to proclaim public"	an oral will
holographic will	holográphus - "written entirely in one's own hand" (from the Greek ὁλόγραφος - hológraphos)	a will written entirely in one's own hand
fiduciary	fidúcia - "trust"	a trustee of a trust or the executive administrator of a will
antenuptual agreement	ante - "before" núptuae - "marriage"	a contract whereby a person about to be married surrenders the right to inherit from his or her intended spouse
appellate court	appellare - "to appeal"	a court having the power to hear appeals and to reverse court decisions; the appellate court is one of the greatest contributions of the Romans to our legal system

ENGLISH EXPRESSION	LATIN ROOT	MEANING OF EXPRESSION
venue	venire - "to come"	the locality where a crime is committed or a cause of action occurs

Activities

1. Tell the students that they are going to learn some legal Latin terms and Latin-based terms used in connection with divorces and wills. Tell the following story, in a dramatic fashion. Have pupils echo the Latin terminology and Latinate words underlined. Explain the underlined items in terms of the charts given in the Objectives of this lesson.

CLARENCE AND LACRIMOSA FALL IN LOVE

Once upon a time, Mr. Clarence Claravox fell in love with Ms. Lacrimosa Lexdubia. They decided to marry, but since they were mature people with grown children and grandchildren to whom they each wished to leave their respective estates, they had their attorney (Mr. Hedgeclip of the renowned law firm of Hedgeclip, Uptight, and Churn) draw up an antenuptual agreement. Under the terms of this antenuptual or premarital agreement, both Clarence and Lacrimosa surrendered all rights of inheritance from one another. Mr. Hedgeclip told them that without this antenuptual agreement in Pennsylvania and other states, a spouse gets one-half or one-third of the other's estate regardless of what the will says. Both Clarence and Lacrimosa each wanted their own grandchildren to inherit everything.

When Clarence and Lacrimosa asked if the antenuptial agreement would be upheld, Mr. Hedgeclip explained the appellate courts had already upheld such agreements. According to the principle stare decísis (et non quiéta movére) the validity of antenuptual agreements could not be successfully challenged in appellate court.

THEIR DIVORCE

Unfortunately, Clarence and Lacrimosa did not get along after they were married. They decided on a formal separation or divorce a mensa et thoro. The divorce a mensa et thoro was just the beginning. Later, Clarence and Lacrimosa decided to ask Mr. Hedgeclip to arrange a divorce a vínculo matrimónii. The venue was Philadelphia.

CLARENCE MAKES A WILL

After the divorce a vínculo matrimónii, Clarence meets with Mr. Hedgeclip to talk about his will. Clarence is getting on in years, and feels that a will would be a good idea, even though he had already told his grandchildren about his plans. Mr. Hedgeclip explained that in making known his intentions, Clarence had made a nuncupative will

when he was in the hospital after suffering a near-fatal heart attack. Courts, however, look with disfavor on nuncupative wills except in extrémis, such as on the battlefield.

Clarence asked, "Couldn't I just write out what I want done with my money?" Mr. Hedgeclip pointed out that such a handwritten or holographic will was valid in Pennsylvania. However, it is better to have witnesses and give the will to a lawyer or trusted friend, lest it be lost or destroyed by a relative who would otherwise get the money under the intestate laws. A fiduciary, executor, or administrátor cum testaménto annéxo might experience some problems with a holographic will, such as establishing that the holographic will was in Clarence's own handwriting, and that he was of sound mind. The administrator c.t.a.must operate only within the scope of his or her authority; otherwise, he or she would be acting ultra vires.

Mr. Hedgeclip explained that since the corpus of Clarence's estate was large, a fiduciary would be needed. If a fiduciary was not mentioned in the will, then the Registrar of Wills would appoint an administrátor cum testaménto annéxo (c.t.a.).

Clarence decided to divide everything evenly among his six grandchildren. Thus, he made his bequethals on a per cápita basis rather than per stirpes, since he had three sons with one, two and three children respectively. He also decided to establish a testamentary or inter vivos trust for the grandchildren, especially since each grandchild was sui juris.

At the suggestion of Mr. Hedgeclip, he added an in terrórem clause to discourage squabbles among his grandchildren. Mr. Hedgeclip joked that, if Clarence had been defúnctus sine prole, things might have been simpler for the firm of Hedgeclip, Uptight and Churn. At any rate, the firm would be careful not to act ultra vires.

2. Now approach the charts in the Objectives in the usual fashion. Have pupils echo the expressions chorally and individually.

3. Have the pupils work through Wordgames G and H.

WORDGAME G

Choose the correct ending for each sentence. Then check your work with the answer key.

1. A divorce a mensa et thoro (a) terminates the obligation and right of cohabitation but leaves the marriage otherwise intact; (b) dissolves the marriage; (c) is designed to frighten people with its name.

2. A divorce a vínculo matrimónii (a) terminates the obligation and right of cohabitation; (b) dissolves the marriage; (c) is a divorce only "from table and couch."

3. An inter vivos trust (a) is a type of divorce; (b) is a trust worked out for people without children; (c) is a type of trust created during the lifetime of the trustor.

4. Per stirpes inheritance is (a) that which comes according to branches or stalkes or stems of a family; (b) that which comes by heads or individually; (c) the same as a nuncupative will.

5. Per capita inheritance (a) takes into account branches or stalks or stems of a family; (b) is by "heads" or individually; (c) is the same as a holographic will.

6. An administrator cum testaménto annexo is (a) someone appointed to administer the terms of a will when no executor is mentioned; (b) the person who inserts an in terrórem clause; (c) a person who is not of full legal capacity.

7. An in terrórem clause (a) is almost the same as a Fiduciary; (b) is designed to frighten the beneficiaries from challenging any part of the will; (c) is designed to prevent people from leaving money to fox terriers.

8. The corpus is (a) the capital of a fund or trust; (b) the income of a fund or trust; (c) a change in venue to Corpus Christi, Texas.

9. A person who is 21 years or older is usually considered to be (a) sui juris; (b) in extrémis; (c) defúnctus sine prole.

10. A will made in extrémis is one made (a) at the point of death; (b) at the point of birth; (c) before marriage.

11. A decedant with no children is (a) a person divorced a mensa et thoro; (b) a defúnctus sine prole; (c) an administrátor cum testaménto annexo.

12. The principal stare decísis et non quiéta movére means (a) that once a point is settled by a decision, it forms a precedent to be followed; (b) that precedents can be appealed to appellate courts; (c) that staring and not being quiet in court are not allowed.

13. A nuncupative will is (a) a handwritten will; (b) an antenuptual agreement; (c) an oral will.

14. A holographic will is (a) a handwritten will; (b) written in Egyptian hieroglyphics; (c) an oral will.

15. A trustee of a trust or the executive administrator of a will is also known as a (a) venue; (b) fiduciary; (c) corpus.

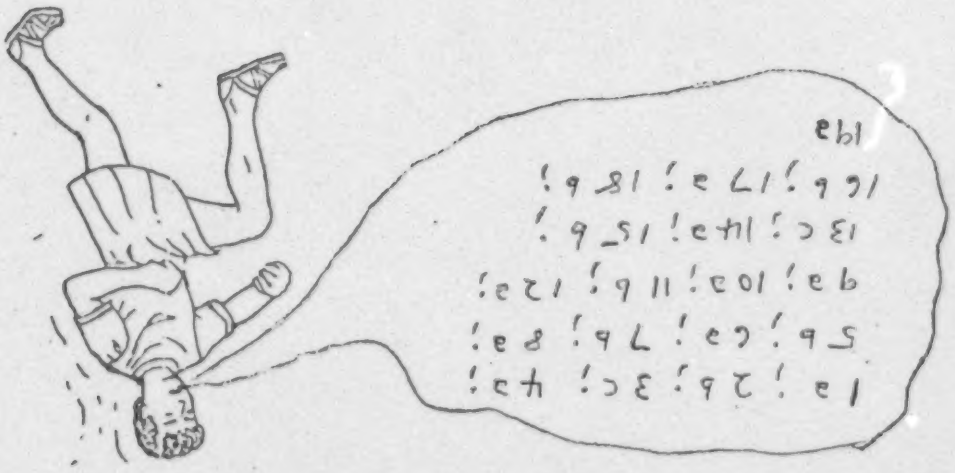
16. An antenuptual agreement is (a) a legal document against nuclear war; (b) a contract whereby two persons going to marry surrender the right to inherit from the intended spouse; (c) a nuncupative will.

17. An appellate court is (a) one having the power to hear appéals; (b) one that makes decisions on the validity of nuncupative and holographic wills; (c) one which deals with change in venue.

18. The locality where a crime is committed or a cause of action occurs is (a) the corpus; (b) the venue; (c) the fiduciary.

19. When an officer of a corporation acts ultra vires, he (a) does something beyond the scope of his authority; (b) with the full approval of the Board of Directors; (c) with a virus.

KEY - NOW CHECK YOUR ANSWERS



IF YOU HAD 17 or 18 CORRECT, WRITE MÁXIMA CUM LAUDE ("WITH THE HIGHEST PRAISE") ON YOUR PAPER.

IF YOU HAD 15-16 CORRECT, WRITE MAGNA CUM LAUDE ("WITH HIGH PRAISE").

IF YOU HAD 13-14 CORRECT, WRITE CUM LAUDE ("WITH PRAISE").

IF YOU HAD A PERFECT PAPER, ALSO WRITE JURIS DOCTOR, HONÓRIS CAUSA! ("DOCTOR OF LAW, FOR THE SAKE OF HONOR") ON YOUR PAPER.

WORDGAME H

ultra vires
a mensa et thoro
a vínculo matrimónii
inter vivos
per cápita
per stirpes
administrátor cum testaménto annéxo
in terrórem
corpus
sui juris
in extrémis
defúnctus sine prole
stare decísis et non quiéta movére

---

nuncupative will
holographic will
fiduciary
antenuptual agreement
appellate court
venue

Ms. Prima Facie is the very efficient head secretary of the renowned law firm of Hedgeclip, Uptight, and Churn. Mr. Churn has given Ms. Facie the task of fitting into legal documents a number of Latin expressions and other legal terms. The list of expressions and terms appears above. Sentences taken from the legal documents appear below. See if you can help Ms. Facie (and Mr. Churn) by fitting the expressions and terms into the appropriate slots.

1. Since an unprejudiced jury cannot be found in this locality, a request was made for a change of _____.

2. Mr. Claravox and Ms. Lexdubia were about to get married. To prevent inheritance from one to another from taking place they signed an_____.

3. Since the lower court did not reach a verdict that was satisfactory to Hedgeclip, Uptight and Churn, an appeal to an _____ _____ was necessary.

4. An executor or _____ was appointed in the will.

5. In time of war when written wills are not always possible , a _____ _____ may be valid at the point of death or _____.

6. A _____ _____ or will written entirely in one's own hand is valid in the Commonwealth of Pennsylvania.

7. According to the principle of _____ _____ _____ _____, the validity of a holographic will in Pennsylvania cannot be challenged, since precedent has established its validity.

8. A dead man without children is a _____ _____ _____.

9. A person in good mental health and over the age of 21 years is _____ _____.

10. The _____ of a fund is the capital as distinguished from the interest or income.

11. When people wish to avoid challenges to their wills by any beneficiaries, they in sert an _____ clause. This clause invalidates a bequest if the beneficiary thereof challenges any provision of the will.

12. If no executor is mentioned in a will, the Registrar of Wills or another appropriate "official" will appoint an _____ _____ _____ _____ to carry out the terms of the will.

13. An _____ _____ trust is one created "among the living", i.e., during the lifetime of the trustor.

14. A _____ _____ distribution of an estate gives every grandchild an equal share. A _____ _____ distribution takes into account the "branches" or trunks of a family and may result in an unequal distribution among the children.

15. A divorce _____ _____ _____ _____ does not end a marriage, but ends the obligation and right to live together.

16. A final divorce is _____ _____ _____. This divorce dissolves the bond of marriage.

17. A judge must act within the scope of his authority; otherwise, he would be acting _____ _____.

LESSON 14 (UNIT REVIEW)

Objectives

To review the linguistic and cultural material presented in this unit.

Activities

Praenotandum: Due to the length of this unit, more than one class period may be needed for review purposes. The amount of time needed will vary from class to class. In general, it is suggested that a balance be maintained among the various elements of the unit, viz, Latin quotations and phrases, English derivatives and cognates, and cultural information.

1. Have the pupils echo each of the following legal maxims orally:

Cáveat emptor.
Cáveat vendor.
Res ipsa lóquitur.
Lex non curat de mínimis.
Lex dúbia non obligat.
Ignorántia legis néminem excúsat.
Ad impossibília nemo tenetur.
In generálibus versátur error.
Excéptio probat régulam.
Cujus est solum ejus est usque ad coelum.

Then, ask pupils to apply the appropriate maxim or principle to each situation:

a. The buyer of a used car without a guarantee is completely responsible for any defect in the car.

b. The store that sells new televisions with guarantees is responsible if one of the sets fails to work properly.

c. A judge refuses to hear a case where 5¢ has been stolen.

d. A sign reading "No Parking" is directly above a sign which reads "Meter Parking Permitted."

e. A motorist claims that he did not know that the speed limit for 50 miles per hour.

f. A bankrupt man is sued for a million dollars.

g. The precise location and extent of a vacant lot is not described on the deed.

h. Everyone except Octavia fell asleep during the lesson.

i. Claudius decided to build a skyscraper on the vacant lot he owns.

j. A landlord trips over the junk that a tenant has left in the hallway of an apartment building and breaks his ankle. The tenant challenges the landlord to prove negligence.

2. Assign one or more of the following topics as the subject(s) of compositions. The compositions may be written as homework or in class. Different students may write on different topics. Or the topics may be discussed in class.

a. The similarities and differences between Roman Courts and American Courts

b. The Code of Justinian and Its Influence

c. The Story of Orestes and Its Influence on Legal Practice

d. The Definition of Law of Thomas Aquinas

e. Common Law Compared with Roman Law

f. Cicero's Courtroom Techniques

3. Have pupils work through the following wordgames, either in class or for homework.

WORDGAME I

ex officio
de facto
bona fide
amicus curiae
mare clausum
ad hoc
ipso facto
prima facie
ex post facto
modus operandi
sine die
pro tempore
de jure
ad hominem
ad valorem

Stanley's mother-in-law is shouting legal Latin expressions at him. Try to help Stanley by placing the expressions in the proper sentences below, and thereby getting them out of his ear:

a. The Queen participates _____ _____ in the opening of Parliament in Great Britain.

b. _____ _____ segregation is separation of the races that exist in fact, though not necessarily allowed by law. An example would be the segregation that exists in big city schools.

c. _____ segregation is separation of the races enforced by law. The so-called apartheid policy in the Republic of South Africa is an example.

d. A _____ _____ promise would be one made in good faith.

e. A teachers' union might file a brief of _____ _____ in a case involving educational issues.

f. _____ _____ evidence must be presented at a preliminary hearing in order for a criminal trial to be scheduled.

g. A committee especially formed to look into race relations could be called an _____ _____ committee.

h. When a session is completed, the Congress adjourns _____ _____.

i. _____ _____ laws or laws that operate retroactively are forbidden by the U.S. Constitution.

j. A temporary chairperson could be called a chairperson ___ ___.

k. When a series of robberies occurs, police will study the _____ _____.

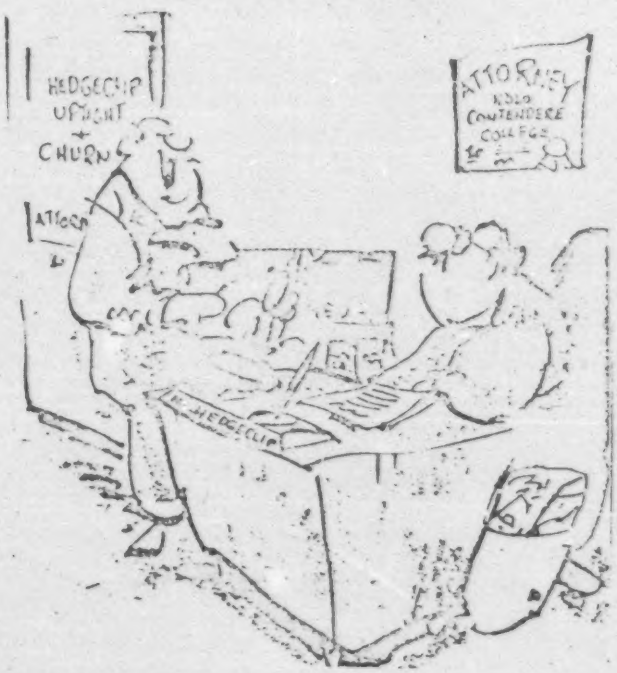
l. Citizenship ___ _____ confers all the rights and privileges thereof.

m. In trying to prevent Israel from using the Red Sea, the Arab nations at one time said that it was a _____ _____ and, therefore, not open to other nations without permission.

n. _____ _____ taxes add considerably to the cost of living.

o. A recent statement about foreign policy by Richard Nixon was criticized by a newspaper editor on the grounds that Nixon is an unsavory character and a crook. The editor was using an _____ _____ argument.

WORDGAME J

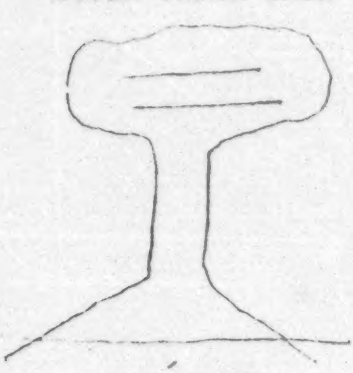


MR. BELLEFONTAINE IS A CLIENT AT THE DISTINGUISHED LAW FIRM OF HEDGECLIP, UPTIGHT, AND CHURN. HE IS MEETING WITH MR. HEDGECLIP ABOUT SOME LEGAL TERMINOLOGY THAT HE DOES NOT UNDERSTAND. SEE IF YOU CAN EXPLAIN THE UNDERLINED TERMINOLOGY IN YOUR OWN WORDS, AND THEREBY SAVE MR. HEDGECLIP TIME.

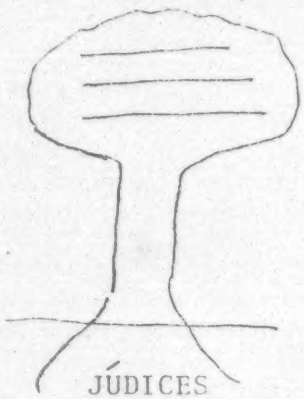
Injudicious(1) statements must be avoided in a court of law. Jurisprudence (2) and a proper respect for the dignity of a jurist(3) require the prosecutor(4) and the defendant(5) to avoid perjury(6). A magistrate (7) will adjudicate(8) any problems including evidence of prejudice(9) and indefensible (10) attitudes.

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____ 10. _____

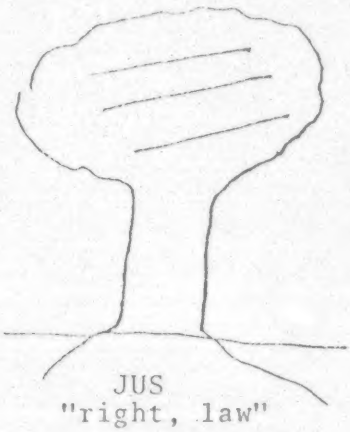
TO MAKE THINGS EVEN CLEARER FOR MR. BELLEFONTAINE, SEE IF YOU CAN FIT EACH WORD INTO THE APPROPRIATE WORD TREE. THE LATIN ROOTS ARE GIVEN UNDER EACH TREE.



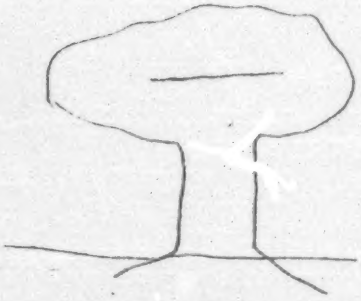
DEFÉNDERE
"to defend"



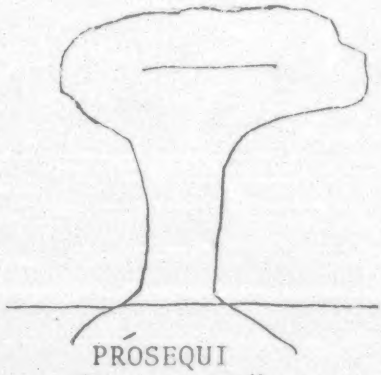
JÚDICES
"jury"



JUS
"right, law"



MAGISTRÁTUS
"magistrate"



PRÓSEQUI
"to pursue"

THEN, MR. BELLEFONTAINE SHOWS SOME NOTICES ON PROPERTY SALES TO MR. HEDGECLIP AND ASKS FOR AN EXPLANATION OF THE ABBREVIATION ET UX. AND ET AL. HERE ARE THE NOTICES:

APRIL 5-11, 1982
PHILADELPHIA BUSINESS JOURNAL

CHELTENHAM, 731 Sunset Road, Glenside, Pa. 19038; $117,000; Alice R. Giess to William J. Oxchell et ux.

10 MORELAND CIRCLE (7824 Moreland); $180,000; Evelyn Lessner to John S. Alsentzer et ux.

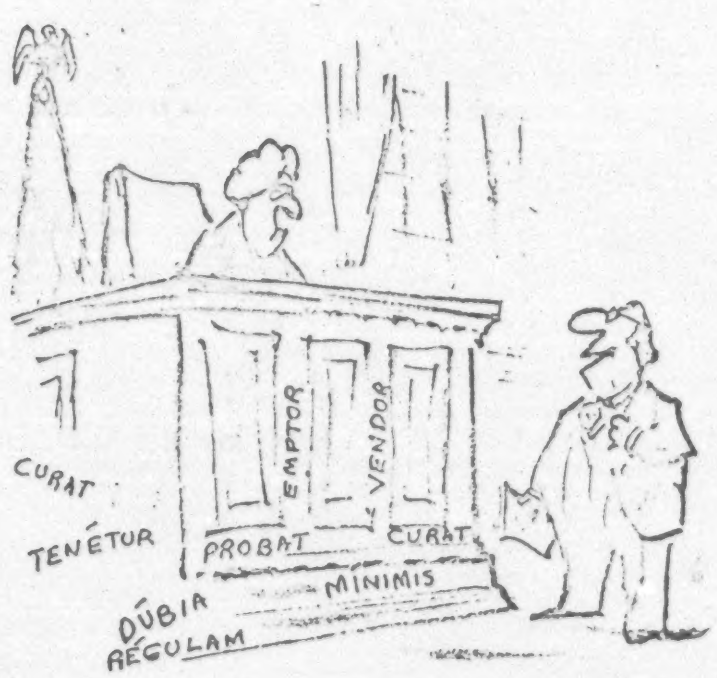
529-539 McKINLEY ST., Philadelphia, Pa.; $350,000; William Bass et al to Marcus Spink et ux et al.

MR. HEDGECLIP TELLS HIM THAT ET UX. STANDS FOR ET UXOR AND MEANS "AND HIS WIFE." IT IS OFTEN USED ON DEEDS AND OTHER LEGAL DOCUMENTS PERTAINING TO PROPERTY TO SAVE SPACE IN INDICATING NAMES. ET AL. STANDS FOR ET ALII (OR ET ALIA) AND MEANS "AND THE OTHER PEOPLE" OR "AND THE OTHER THINGS."

AS A BONUS -- AT NO EXTRA CHARGE-- MR. HEDGECLIP GIVES MR, BELLEFONTAINE A LIST OF LEGAL LATIN ABBREVIATIONS USED IN ENGLISH. SEE IF YOU CAN FILL IN THE MEANINGS OF THE ABBREVIATIONS:

ABBREVIATION	FULL VERSION	MEANING IN ENGLISH
pro tem.	pro tempore	
nol. pros.	nolle prósequi	
m.o.	modus operándi	
et ux.	et uxor	
et al.	et álii (et ália)	

WORDGAME K



JUDGE ROSA SINESPINA IS PRESIDING AT A TRIAL. A NEW COURT STENOGRAPHER HAS TAKEN NOTES AND IS NOT SURE OF CERTAIN WORDS WHEN TRANSCRIBING THE NOTES. HELP OUT BY SELECTING THE CORRECT WORD FOR EACH OF JUDGE SINESPINA'S STATEMENTS. LATIN ROOTS HAVE BEEN CARVED ON THE BENCH TO HELP YOU.

1. Being a juror is not a _____ (sinecure/probate).
2. Wills must go to _____. (probate/vendor)
3. In dealing with the court system, one must be _____ (tenacious/indubitable).
4. A court is in a sense a _____ (curator/emporium) of justice.
5. The criminal has a _____ (dubious/caveat) reputation.
6. Criminals are sometimes put on _____. (probation/regulator)
7. The judge must sometimes issue a stern _____ (caveat/emporium).
8. The jury is not _____ (vendible/probate).

9. People will _____(minimize/probate) guilt on occasion.
10. The government serves as a _____ (irregularity/regulator) of business.

LESSON 14 (UNIT REVIEW)

Objectives

To evaluate pupil mastery of material covered in this Unit.

Activities

Distribute the following test and have pupils work on it during the class period. When you have corrected the test, return it to the pupils and go over it, question-by-question. Questions may be added to the following test in accordance with the emphasis placed on certain sections of the Unit by the teacher. Prompt return of corrected test papers will provide pupils with desirable feedback.

EXÁMEN LATÍNUM

Nomen meum est _____

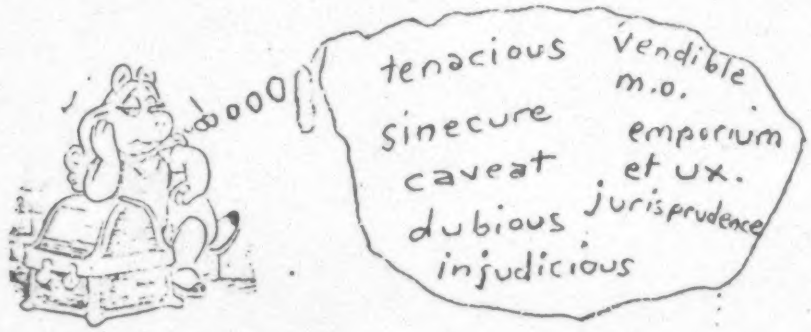
Schola _____

Die _____ Mense _____ 19____

I. Elige respónsum corréctum (circle the correct completion).

1. Cáveat _____ (A.ignorántia; B.emptor; C.error)
2. Excéptio probat _____ (A.emptor; B.regúlam; C.vendor)
3. Ignorántia _____ néminem excúsat. (A.lex; B.legis; C.solum)
4. Lex dúbia non _____ (A.cáveat; B.obligat; C.versátur)
5. Lex non curat ____ _____. (A.emptor vendor; B.de mínimis; C.ad coelum)
6. Ex ____ _____ (A.sine die; B.post facto; C.pro témpore)
7. Ipso _____ (A.fatso; B.facto; C.operándi)
8. Sine _____ (A.amícus; B.dic; C.fácie)
9. Et _____ (A.hoc; B.uxor; C.fide)
10. Modus _____ (A.operándi; B.amícus; C.sine)

II. Fini senténtias verbis aptis. (Finish the sentences with the appropriate words).



1. A _____ person is one who is persistant and "holds on."
2. The teacher issued a _____ for students not to cheat during the test.

3. Teaching is a job with many responsibilities and problems; it is not a _____.

4. Lawyers study _____ or legal science.

5. A shopping center is a vast _____.

6. The married couple who owned the house were listed in the deed as C.S. Marquis __ ___.

7. Two bank robberies involved masked bandits carrying guns; the _____ in each case was similar to the other.

8. Miss Piggy's favors and affections are not _____.

9. A stupid remark could also be called _____.

10. Getting the lowest marks in the class is a _____ distinction.

III. Respónde quaestiónibus (answer these questions).

1. Explain some of the differences between Roman Law and Common Law.

2. According to Thomas Aquinas, what are some of the characteristics that law must have?

IV. Elige respónsum corréctum (Choose the correct response).

1. Cicero was:
   A. Milo's archenemy
   B. a friend of the Emperor Justinian
   C. a famous Roman lawyer, writer, and statesman

2. Orestes was pursued by the Furies because:
   A. he had killed his mother, Clytemnestra
   B. he hated Apollo and Athena
   C. he had written the Codex Justiniáni

3. Justinian is remembered for:
   A. his great codification of Roman law
   B. his participation in the trial of Socrates
   C. his belief in the lex taliónis

4. The Romans distinguished between jus civíle, jus géntium, and jus naturále. Jus civíle was:
   A. the civil law that applied to Roman citizens
   B. the law of nations of common legal principles among many people
   C. the law of nature or principles binding on all human beings

5. When the Roman jurist, Gaius, said that "in doubtful matters, always the kinder spirit is to be preferred" he meant that:
   A. people should be given the benefit of the doubt
   B. the law should be as harsh as possible
   C. strict judges are needed

6. Roman law is used today as the basic legal system in:
   A. most parts of the British Commonwealth of Nations
   B. Latin America, most of Europe, and most of Asia, except for English-speaking countries and the Soviet Union
   C. the United States

7. In ancient Roman courts, the praetor ("judge") determined what legal principle was involved. The júdices ("jury" or "subordinate judges") had to:
   A. find out the facts in the case and act on "instructions" (fórmula) from the praetor
   B. wait for the praetor to give a verdict and then agree or disagree
   C. serve as prosecutors on behalf of the state

8. The Latin legal maxim cáveat vendor means:
   A. "Let the seller beware"
   B. "Let the buyer beware"
   C. "Error thrives in general terms"

APPENDIX I

SELECTED ANNOTATED BIBLIOGRAPHY

Praenotandum: The following list of works is intended primarily for teacher reference where the teacher may wish to supplement or expand the content of the unit or deepen his or her knowledge of legal Latin and Roman law.

- James A. Ballentine ed. by Wm. S. Anderson: Ballentine's Law Dictionary, Third Edition, The Lawyers' Cooperative Publishing Co., Rochester, NY, 1969, pp. 1429.

  This thorough alphabetical listing of legal terms, Latin phrases used in law, and legal Latin maxims gives full history of the entries, as well as current usage. The anglicized pronunciation of the Latinity (which is used by many modern lawyers and legal scholars) is provided. The entries are engagingly written and, despite the technical nature of the content, attractive enough to sustain reading interest.

  This standard reference work is available for purchase at university book stores (e.g., Temple, University of Pennsylvania) as well as directly from the publisher. It is also available in some public libraries.

- J.A. Crook: Law and Life of Rome, Camelot Press, Ltd., London, 1967, pp. 349.

  This overview of Roman legal practice treats such topics as the machinery of the law, family and succession, property, labor, the law in commerce, and the citizen vis à vis the state. Ancient documents are often quoted. The book is difficult reading, however, for the novice, since it presupposes some knowledge of ancient history and mores.

- W.W. Buckland and Arnold D. McNair rev. by F.H. Lawson: Roman Law and Common Law - A Comparison in Outline, 2nd edition. Cambridge University Press, 1974, pp. 439.

  This book examines the fundamental rules and institutions of the two systems of law and their approaches to the same problems and facts of human life. Contracts, obligations, property laws, and legal procedures are treated in detail. Though apparently a locus classicus for comparative study of Roman and Common Law, it is fairly difficult reading and perhaps is best approached in small doses.

- John Maxcy Zane: The Story of Law, Garden City Publishing Co., Garden City, N.Y., 1927, pp. 486.

  Though probably long out of print, this book is available in some public libraries and has the advantage of being suitable for reading by students as well as teachers. Though there is some treatment of law among primordial people and middle-eastern law, the emphasis is distinctly on the development of Roman law and its use in antiquity, the middle ages, and modern times.

- Posters from the American Classical League Teaching Materials and Resource Center.

  A number of posters made available from the ACLTMRC are useful in connection with this unit, e.g., "Legal Terms," "Latin Phrases in Common Use," "Loan Word Chart," and "Latin Abbreviations in English." Write for a free catalogue of offerings c/o The American Classical League Teaching Materials and Resource Center, Miami University, Oxford, Ohio 45056.

- Bouvier's Law Dictionary, ed. Wm. Edward Baldwin, Clark Boardman, Co., Ltd. New York, 1928, pp. 1245.

  Similar in content and format to Ballentine's Law Dictionary, this standard reference work sheds light on Latin terminology and the impact of Roman Law on Common Law. The book has been out of print for several years, but is available in libraries.

APPENDIX II - THE CLASSICAL PRONUNCIATION OF LATIN

Praenotandum: The following very brief summary of the Classical Pronunciation of Latin is presented for the convenience of teachers. Teachers trained in other systems of pronunciation should review the summary carefully.

1. Long vowels have the following sounds:

   a as in father
   e as in they
   i as in machine
   o as in lone
   u as in rude
   y as in the French tu

2. Short vowels are supposedly the same qualitatively as long vowels; quantitatively, however, they take less time to say than long vowels.

3. Diphthongs have the following sounds:

   ae as in aisle
   au as in round
   oe as in oil
   eu as in they plus rude

4. Consonants are, in general, as in English. Note, however, these sounds of letters and groups of letters:

   g is always as in good
   t is always as in top
   c is always as in cat
   v is like the English w in wet
   gn is not a special character
   ti is not a special character
   qu is always as in queer
   j is like the English y in yes
   bs equals ps
   s is always as in say
   ch is almost like k in look
   ph is almost like p in put
   th is almost like t in ten

4. Accent falls on the first syllable of a two-syllable word. In a longer word, the accent falls on the next-to-the-last syllable, if it is long. If that syllable is short, the one immediately preceding it is stressed. A syllable is long is it contains a long vowel or diphthong, or if the vowel is followed by two consonants.

   Long vowels are marked with the long mark or macron (-) in Latin dictionaries and some textbooks, as a convenience to students and teachers. Vowels without long marks are short.

   A sentence with macrons inserted looks thus:

   Dē minimīs nōn cūrat lex.

   Inasmuch as teachers of varying preparations in Latin will be using this curriculum guide, ad experiméntum, Latin words of three or more syllables are marked with an acute accent to indicate the stressed syllable. This practice is in imitation of the usage in liturgical Latin books. The acute accent is, in no sense, part of the orthography of the word as in Spanish or French, but simply a practical pedagogical device.

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